



APPLICATION ACCEPTED: April 15, 2015
PLANNING COMMISSION: October 7, 2015
BOARD OF SUPERVISORS: October 20, 2015 @ 3:30 pm

County of Fairfax, Virginia

September 24, 2015
STAFF REPORT
JLB LOCAL AGRICULTURAL AND
FORESTAL DISTRICT
AR 90-S-004-03
SPRINGFIELD DISTRICT



WS

APPLICANT: JLB Associates
ZONING: R-C, WS
PARCEL: 66-4 ((1)) 19Z
LOCATION: North and south sides of Popes Head Road,
approximately 3,000 feet west of Colchester Road.
SITE AREA: 34.1 acres
PLAN MAP: Residential Use at 0.1 to 0.2 du/ac
PROPOSAL: Renewal of Local Agricultural and Forestal
District

STAFF RECOMMENDATIONS:

Staff recommends that Appendix F of the Fairfax County Code be amended to renew the JLB Local Agricultural and Forestal District subject to the proposed Ordinance Provisions contained in Appendix 1.

It should be noted that approval of an agricultural and forestal district application does not automatically qualify a property for land use value assessment. Upon

Michael H. Lynskey, ASLA

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/



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Integrity * Teamwork * Public Service

application to the Department of Tax Administration (DTA) for taxation on the basis of land use assessment, DTA must independently determine if the subject property meets the definition of either agricultural and/or forestal use, as well as the appropriate guidelines, including minimum acreage, for either use, as required by Title 58.1 of the Code of Virginia, which is found in Appendix 11.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any Ordinance provisions, relieve the applicant/owner from compliance with the provisions of any other applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

A&F District Renewal

AR 90-S -004-03



Applicant:

JLB ASSOCIATES

Accepted:

04/15/2015

Proposed:

RENEWAL OF AF 90-S-004 AGRICULTURAL AND FORESTAL DISTRICT

Area:

34.1 AC OF LAND; DISTRICT - SPRINGFIELD

Zoning Dist Sect:

Located:

NORTH AND SOUTH SIDES OF POPES HEAD ROAD APPROXIMATELY 3,000 FEET WEST OF ITS INTERSECTION WITH COLCHESTER ROAD

Zoning:

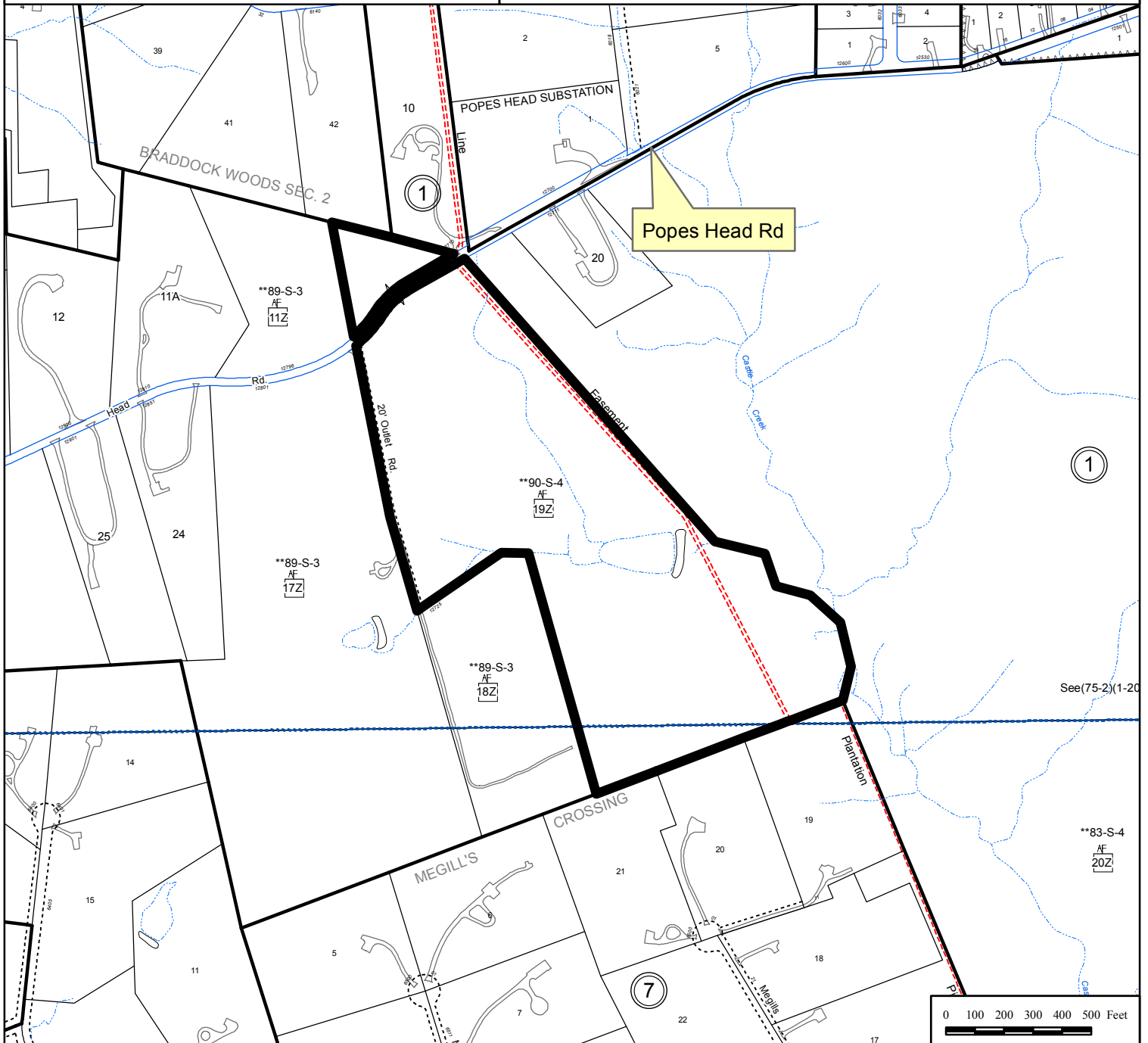
R- C

Overlay Dist:

WS

Map Ref Num:

066-4- /01/ /0019Z



**A GLOSSARY OF TERMS FREQUENTLY
USED IN STAFF REPORTS WILL BE
FOUND AT THE BACK OF THIS REPORT**

DESCRIPTION OF APPLICATION

AR 90-S-004-03 is a request to renew the JLB Local Agricultural and Forestal (A & F) District for an additional eight-year term (under the provisions of Chapter 115 of the Fairfax County Code). A & F Districts encourage the preservation of significant tracts of agricultural and forested land throughout the County by providing a reduced real estate tax assessment in exchange for a commitment to preserve the land for the length of the term. While certain exceptions are permitted, the land is expected to remain at its present use and development intensity for the extent of the eight-year term. Removal of the district before the conclusion of the term is subject to a penalty and payment of roll back taxes, per the terms in Article 6 of Chapter 115.

Applicant:	JLB Associates
Acreage:	34.1 acres
Uses:	Active agriculture – 0 acres Forested or undeveloped – 34.1 acres Residential – 0 acres

A copy of the applicant's application is contained in Appendix 2; Proposed Ordinance Provisions are contained in Appendix 1.

BACKGROUND

The property was purchased by the current owner in 1961, and has remained undisturbed since that time, with the exception of periodic mowing of the meadow and construction and stocking of a pond in 1963-64. The property was designated a local A & F District with the approval of AF 90-S-004, on June 3, 1991, and has been renewed two times, in 1999 and 2007. The property remains in its original configuration.

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Area III
Planning District:	Pohick
Planning Sector:	P3 – Johnny Moore
Plan Map:	Residential use at a density of 0.1 to 0.2 dwelling unit per acre (du/ac) and Public Parks.

LOCATION AND CHARACTER

The subject property is located in the Clifton area, along Pope's Head Road, between Clifton Road and Colchester Road. The property and surrounding area are zoned to the Residential Conservation (R-C) and Water Supply Protection Overlay (WS) Districts, which serve to ensure large parcel sizes (5 to 10 acres) and low residential density, in an effort to protect the water quality of the Occoquan reservoir.

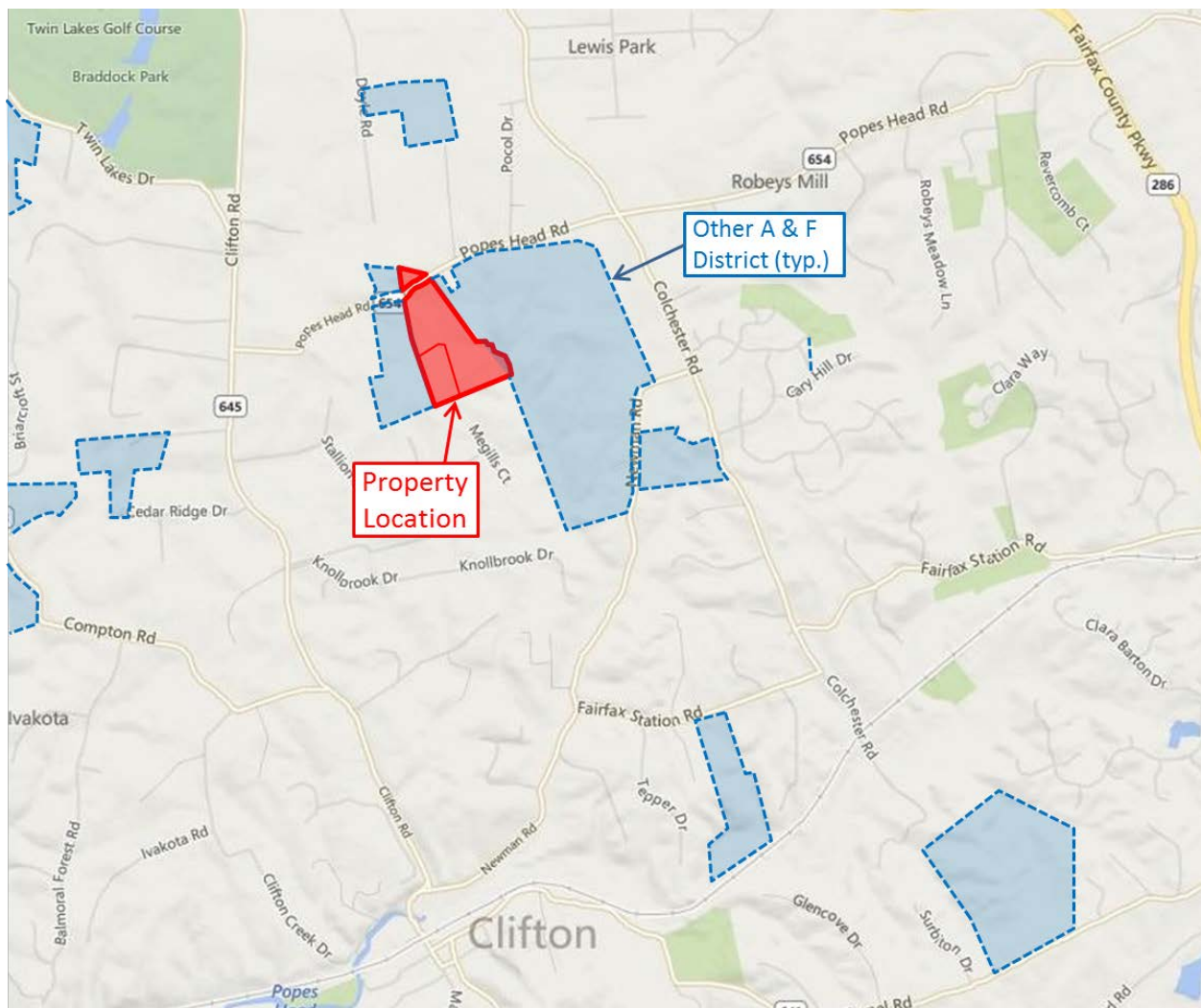


Figure 1: District location map.

Surrounding Area Description:

The surrounding area is developed generally in conformance with the planned five-acre or larger residential uses. Several larger parcels still remain in the vicinity of the application property, most of which are also included in the Agricultural and Forestal District program. The application property is directly adjacent to the 205-acre Whitehall Statewide A & F District, to the east, and the 43-acre Reed Local A & F District, to the west.



Figure 2: Aerial view of District.

Property Description:

The 34.1-acre property consists of only one parcel, which is bisected by Pope's Head Road into two segments. The core area of the parcel is located to the south of the roadway. The majority of the property is forested, with the exception of an approximately seven-acre area of meadow, and the entire property is undeveloped, other than ruins of a long-abandoned house that still remain on the site. A 1/2-acre spring-fed pond is located on the southeastern portion of the site.

Figure 3: Structures on the Property		
Structure	Year Built	Use
House ruins	+/- 1930	Abandoned



Figure 4: Ruins of an abandoned house on the site.

STAFF ANALYSIS

Land Use Analysis (Appendix 3)

The Comprehensive Plan for this area recommends low-intensity uses, including large-lot residential uses, private open space and public parks, in order to protect the water quality of the Occoquan Reservoir. Agricultural and Forestal uses are specifically recommended by the Plan as alternatives to residential uses in this area.

Staff feels that the continuation of this Agricultural and Forestal District would be compatible with the existing and planned low density residential character, and would help preserve the rural and scenic character of the site and surrounding area.

Environmental Analysis (Appendix 3)

Approximately eight acres of the site have been identified as Resource Protection Area (RPA) associated with a tributary of Castle Creek, according to the provisions of the Chesapeake Bay Preservation Ordinance, as well as an Environmental Quality Corridor (EQC), as defined by the County Comprehensive Plan. A stocked pond also exists

along the creek within the District. The buffer areas adjacent to the stream are well-vegetated and are providing water quality protection. A wooded area on the eastern portion of the site did show signs of erosion, however, largely due to the lack of understory vegetation present, presumably due to deer browse. Invasive species were also noted on the site.

Overall, the property remains in good condition and continues to be consistent with the goals and objectives of the Comprehensive Plan.

Transportation Analysis (Appendix 6)

This application does not represent any conflict with the Countywide Plan transportation recommendations and would have no traffic impact. No projects that would affect the site are included in current construction programs. There are no transportation-related concerns with the application.

Parks Analysis (Appendix 7)

The Park Authority supports the establishment of A&F districts as they further goals of the FCPA policy manual. Furthermore, Park Authority staff has determined that this application bears no adverse impact on the land, resources, facilities or service levels of the Park Authority.

Forestry Analysis (Appendix 4)

The area forester from the Virginia Department of Forestry visited the site and found no major change since the previous renewal. A memo was issued, dated June 1, 2015, that reiterated that invasive species and deer browse continue to be issues, but the trees are otherwise healthy and continue to grow. The forester recommends that the previous Forest Management Plan (dated July 3, 2007) be continued for the current renewal term.

Soil and Water Conservation Analysis (Appendix 5)

There is no active agricultural use on the site, so a Soil and Water Quality Conservation Plan is not required; however, a soils analysis and management plan was completed with the prior 2007 approval and is included as Appendix 5 of this report.

Agricultural and Forestal District Criteria Analysis

Article 5 of Chapter 115 of the Fairfax County Code contains two sets of criteria which are designed to serve as a guide in the evaluation of proposed Local Agricultural and Forestal Districts. All of the applicable criteria in Group A, and least two criteria from Group B should be satisfied by the proposed district. It is important to note that these criteria are a guide to be applied when establishing, renewing or amending a District; they are not prerequisites. The following is an evaluation of the proposed district's conformance with these criteria:

Criteria Group A:

1. *All district acreage should be currently devoted to agricultural use or forestal use or should be undeveloped and suitable for such uses, except that a reasonable amount of residential or other use, related to the agricultural or forestal use and generally not more than five acres per district, may be included.*

The 34.1-acre property is currently uninhabited and in a state of conservation. The majority of the parcel is forested with a limited portion consisting of meadow that would be suitable for agriculture. This criterion has been satisfied.

2. *All lands in the district should be zoned to the R-P, R-C, R-A, or the R-E District.*

The property is zoned R-C; therefore, this criterion is satisfied.

3. *In general, the district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .1-.2 dwelling unit per acre; .2-.5 dwelling unit per acre; .5-1 dwelling units per acre; Private Recreation; Private Open Space; Public Park; Agriculture; Environmental Quality Corridor. Lands not planned as such may be considered for a district if they meet at least 3 of Criteria Group B.*

The property is planned for residential use at a density of 0.1 to 0.2 dwelling unit per acre (du/ac). Therefore, this criterion has been satisfied.

4. *A majority of the surrounding land within one-quarter mile of the district should be planned according to the Comprehensive Plan for uses identified in A(3) above. Exceptions may be made for lands located at the edge of a planned growth area or which meet at least three of the criteria of Criteria Group B, if no conflicts with surrounding uses, existing and planned, are evident or likely.*

All land within one-quarter mile of the district is also planned for residential use at 0.1 to 0.2 units per acre, or for public park purposes. Therefore, this criterion has been satisfied.

5. *All farms to be included in a district should be at least twenty (20) acres in size. A farm may include several parcels of land; however, all parcels must have the same owner or else owners must be members of the same immediate family or a family trust or family corporation. A farm must contain at least fifteen acres of land in agricultural use. A farm may include non-contiguous parcels within one mile of the core acreage (the largest parcel or group of contiguous parcels or the parcel where the farm buildings are located) as long as the non-contiguous parcels are predominately agricultural in use and as long as the total acreage of each individual farm (including contiguous and non-contiguous land) is at least twenty acres.*

The subject property contains no acreage in active agricultural use, so would not be considered a farm district and Criterion 5 does not apply. The district is evaluated per Criterion 6, below.

6. *All other properties not included in a farm as defined in (5), that is, forested and partially forested properties, and properties with less than 15 acres in agricultural use, should be at least twenty acres in size. These properties may contain several parcels, but all parcels must be contiguous, and all must have the same owners or else owners must be members of the same family or a family trust or family corporation.*

The district contains 34.1 acres, which satisfies the 20-acre minimum specified, and consists of only one parcel, under the ownership of one family. Therefore, this criterion has been satisfied.

7. *Approximately 2/3 of the land (66%) in agricultural use in the district should contain Class I, II, III, or IV soils as defined by the USDA Soil Conservation Service. Districts having more than 1/3 of the land in agricultural use containing Class V-VIII soils may be considered if such lands have been improved and are managed to reduce soil erosion, maintain soil nutrients, and reduce non-point pollution.*

None of the parcel is in current agricultural use, so this criterion does not apply; however, approximately 87 percent of the site consists of soils of capability Classes II and IV.

8. *Agricultural land in the district should be used in a planned program of soil management, soil conservation, and pollution control practices which are intended to reduce or prevent soil erosion, maintain soil nutrients, control brush, woody growth and noxious weeds on crop land, hay land, and pasture land, and reduce non-point source pollution. Exceptions to this criterion may be made only for those agricultural lands which, upon initial application for the establishment of a district are not used in such a program, but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District.*

The property is not in agricultural use; therefore, this criterion does not apply.

9. *Forest land and undeveloped land in the district should be kept in an undisturbed state, or if periodically harvested or experiencing erosion problems, shall be used in a planned program of soil management, soil conservation, and pollution control practices which are intended to reduce or prevent soil erosion, maintain soil nutrients, and reduce non-point source pollution. Exceptions to this criterion may be made only for those lands which upon initial application for the establishment of a district are not used in such a program but for which a conservation plan is being*

prepared or has been requested from the Northern Virginia Soil and Water Conservation District or the Virginia Division of Forestry.

The subject property is approximately 75 percent forested, and is maintained in an undisturbed state. The prior Forest Management Plan for the property (dated July 3, 2007) will be continued for this renewal period. This criterion has been satisfied.

10. *There should be evidence of a history of investment in farm or forest improvements or other commitments to continuing agricultural or forestal use(s) in the district. In particular, districts with no history of investments in farm or forest improvements must evidence a firm commitment to agricultural or forestal uses for at least the life of the district.*

The applicants have owned this property for nearly 50 years, and have retained the property in an undisturbed state during that time, except for construction of the pond in the early 1960s, and periodic mowing of the meadow areas. The applicants continue to commit to preserving the property and following any recommendations of the State Forester. Staff considers this criterion satisfied.

Criteria Group B:

1. *Farm and/or forest products have been regularly produced and sold from the property during the last five years.*

No farm or forest products have been produced or sold from the property in the past five years, so this criterion is not satisfied.

2. *The land provides scenic vistas, improves the aesthetic quality of views from County roads or contributes to maintaining the existing rural character of an area.*

Conservation of this wooded property contributes to the rural, historic character of the area – especially when combined with the other adjacent A & F Districts, which creates a 270+ acre contiguous area of open space and valuable wildlife habitat. Staff considers this criterion satisfied.

3. *The property contains an historically and/or archaeologically significant site which would be preserved in conjunction with the establishment of a district. A site that is listed on the Federal Registry of Historic Places, the State Registry of Historic Places and/or the County Inventory of Historic Places will be considered historically and/or archaeologically significant. A property which contains a site that is historically and/or archaeologically significant by the County Archaeologist, or is located in an area with a high potential for archaeological sites, provided that the property owner has agreed to permit the County Archaeologist access to the site, may also be considered historically and/or archaeologically significant.*

The site contains no architectural resources, but is located in an area known to contain significant prehistoric archaeological resources, and has a high probability of containing resources on-site. An Ordinance Provision is continued with this renewal that would allow the Cultural Resources Division of the Park Authority access to the site for possible archaeological investigation, if requested. Therefore, this criterion has been satisfied.

4. *Farming or forestry operations practice unique or particularly effective water pollution control measures (BMPs).*

There are no unique farming or forestry operations on this site. Therefore, this criterion is not met.

5. *The land is zoned R-A, R-P, or R-C.*

The subject property is zoned R-C. Therefore, this criterion is satisfied.

6. *The land is entirely in a permanent open space easement.*

The subject property is not located within a permanent open space easement; therefore, this criterion is not satisfied.

As previously noted, these criteria serve as a guide in determining whether or not an agricultural district should be established; they are not a prerequisite for establishing a district. As previously stated, all of the criteria in Group A and at least two criteria in Group B should be satisfied. It is the opinion of Staff that this application satisfies all of the applicable Group A criteria and three (3) of the criteria in Group B.

AFDAC RECOMMENDATION (Appendix 8)

On June 6, 2015, The Agriculture and Forestal District Advisory Committee (AFDAC) voted to recommend that the Board of Supervisors renew the JLB Local A&F District for an additional eight-year term, subject to the proposed Ordinance Provisions contained in Appendix 1 of this report.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

Staff believes that the proposal to renew the JLB Local Agricultural and Forestal District meets the intent of the applicable criteria contained in Sect. 115-5-1 of Chapter 115 of the County Code; exceeds the minimum acreage requirement; and is in conformance with the Comprehensive Plan.

Staff Recommendations

Staff recommends that Appendix F of the Fairfax County Code be amended to renew the JLB Local Agricultural and Forestal District, subject to the proposed Ordinance Provisions contained in Appendix 1.

It should be noted that approval of an agricultural and forestal district application does not automatically qualify a property for land use value assessment. Following Board action on an application, the Department of Tax Administration must independently determine if the subject property meets the definition of either agricultural and/or forestal use, as well as the appropriate guidelines for either use, as required by Chapter 58 of the Code of Virginia, which is found in Appendix 10.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any Ordinance Provisions associated with this case, relieve the applicant/owner from compliance with the provisions of any other applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

APPENDICES

1. Proposed Ordinance Provisions
2. Application Form / Statement of Justification
3. DPZ Land-Use/Environmental Analysis
4. VA Department of Forestry Memo & 2007 Management Plan
5. 2007 Soil & Water Conservation Report
6. FCDOT Transportation Memo
7. FCPA Parks Memo
8. Agricultural and Forestal District Advisory Committee Recommendation
9. Fairfax County Code, Chapter 115 – *“Local Agricultural and Forestal Districts”*
10. State of Virginia Code, Title 58.1, Chapter 32
11. Glossary of Terms

PROPOSED ORDINANCE PROVISIONS

September 24, 2015

AR 90-S-004-03

If it is the intent of the Board of Supervisors to renew the JLB Local Agricultural and Forestal District as proposed in AR 90-S-004-03, pursuant to Chapter 36.1 of Title 15.1 of the Code of Virginia and Chapter 115 of the Fairfax County Code, on Tax Map Parcel 66-4 ((1)) 19Z, the staff recommends that the approval be subject to the following Ordinance Provisions:

Standard Provisions (From Chapter 115)

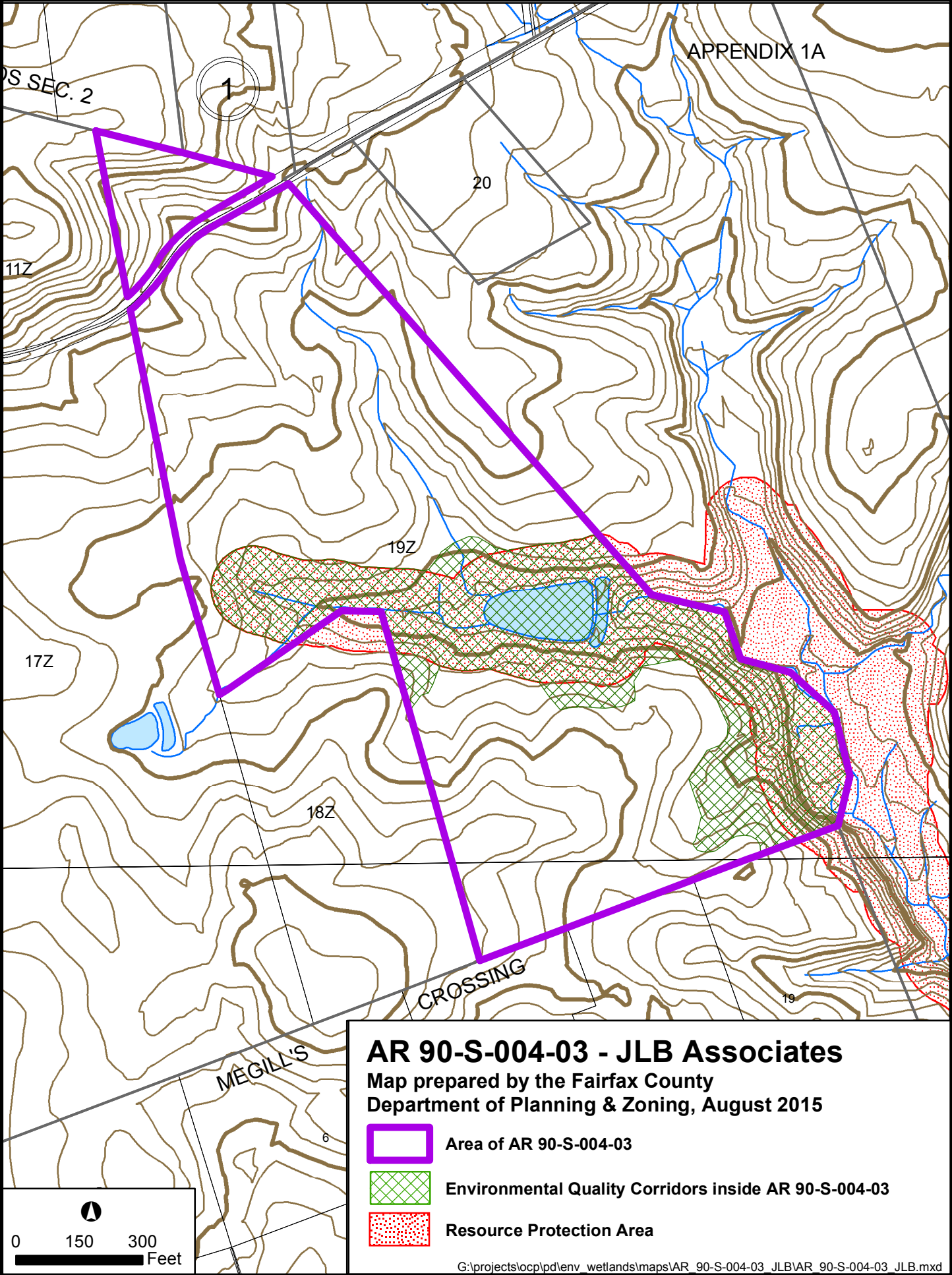
- (1) No parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance establishing such district for eight (8) years from the date of adoption of such ordinance. This provision shall not be constructed to restrict expansion of or improvements to the agricultural and forestal use of the land.
- (2) No parcel added to an already established district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight (8) years from the date of adoption of the original ordinance;
- (3) Land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural or forestal value assessment on such land pursuant to Chapter 4, Article 19 of the Fairfax County Code and to Section 58.1 et seq. of the Code of Virginia, if the requirement for such assessment contained therein are satisfied;
- (4) The district shall be reviewed by the Board of Supervisors at the end of the eight-year period and it may by ordinance renew the district or a modification thereof for another eight-year period. No owner(s) of land shall be included in any agricultural and forestal district of local significance without such owner's written approval;

Additional Provisions

- (5) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. The reconsideration/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A & F District as outlined in Section 115 of the County Code and shall include an opportunity for the property owner(s) to demonstrate that the determination by a court or the

declaration or enactment by the General Assembly does not apply to the conditions of this district.

- (6) The establishment and continuation of this district depends upon the implementation of each of the terms and conditions stated in this ordinance. This district may, at the sole discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if such action is determined to be warranted by the Board of Supervisors upon determination that the terms and conditions stated in this ordinance are not being implemented. The reconsideration/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A & F District as outlined in Section 115 of the County Code.
- (7) The applicants shall continue to implement and abide by the recommendations of the Forest Management Plan dated July 3, 2007 for the life of the JLB Associates Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the State Forester. If the applicants choose to harvest the timber on the lands within the JLB Associates Agricultural and Forestal District, such harvesting shall be in coordination with the State Forester so that special techniques designed to protect water quality may be utilized.
- (8) Those areas delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, with the exception of selective thinning operations performed to enhance existing vegetation and the removal of dead, dying and diseased vegetation in accordance with the Forest Management Plan and as approved by the State Forester. The boundaries of the EQC shall be the permanent limits of clearing and grading for the life of the JLB Associates Local Agricultural and Forestal District (see Appendix 1A).
- (9) The Resource Management Division of the Fairfax County Park Authority shall be permitted to survey the property and to recover artifacts from the property. Surveys and other similar activities of the Resource Management Division shall be conducted only with prior permission of the property owner and at terms mutually acceptable to both parties and established before each occurrence.



APPENDIX 1A

PS SEC. 2

1

20

11Z

19Z

17Z

18Z

19

CROSSING

MEGILL'S

AR 90-S-004-03 - JLB Associates

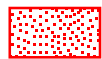
Map prepared by the Fairfax County
Department of Planning & Zoning, August 2015



Area of AR 90-S-004-03



Environmental Quality Corridors inside AR 90-S-004-03



Resource Protection Area



0 150 300 Feet

Application No. AR 90-S-004-03APPLICATION FOR THE ESTABLISHMENT OF A
AGRICULTURAL AND FORESTAL DISTRICT

FAIRFAX COUNTY

1. Type of application: Local (☒) Statewide (☐
Initial (☐) Amendment (☐) Renewal (☒)
2. Please list the Tax Map number, the name and address of each owner and other information for each parcel proposed for this district:


Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
	066-4-01-0019Z	1961	RC, W5	34.1
JLB ASSOCIATES				
3907 N. WAREFIELD ST				
ARLINGTON, VA 22207				

3. Total acreage in the proposed district: 34.1 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm _____ forest 1.

5. Name, address and telephone number of the property owner or representative who will act as a contact person for this application:

Name: LAWRENCE J. BLINCOE
 Address: 1408 N. VERMONT ST
ARLINGTON, VA 22201
 Telephone: (H) 703-527-0910 (W) 202-366-2558

6. Signature of all property owners:


Christine Blincoe
Ludith L. Blincoe
Donna M. Blincoe

TO BE COMPLETED BY THE COUNTY

Date application accepted: April 15, 2015 mpe
4/15/15

Date of action by Board of Supervisors: _____

- ☐ Approved as submitted ☐ Denied
☐ Approved with modifications

Deborah L. Loh
Penbutter

ALL APPLICANTS

1. List all structures on the property, the year the structure was built and the present use of the structure:

Structure	Year built	Use
HOUSE	1930 ?	ABANDONED

use additional page(s) if necessary

2. List any historic sites, as listed on the Fairfax County Inventory of Historic Sites, located on the subject property:

NONE

3. List any improvements made to the property in the past 10 years, including buildings, fencing, equipment, drainage projects, and conservation measures:

NONE

4. Is a Soil and Water Conservation Plan on file with the Northern Virginia Soil and Water Conservation District (NVSWCD): ☒ yes ☐ no

If yes, date prepared: 9/14/92

If no, has an application been filed with NVSWCD: ☐ yes ☐ no

If yes, date submitted: _____

5. List the products and yields from this farm or forest property:

Product	Past year's yield	Average yield for previous 4 years

_____ Owner-operated, full-time.
 _____ Owner-operated, part-time.
 _____ Farm manager operated.
 _____ Rented to another farmer
 Portion of farm rented: _____ all _____ acres.
 Other. Please describe: _____

2. List the acreage of the property which is in the following uses:

Active agricultural uses _____ acres.
 Forested or undeveloped _____ acres.
 Residential uses _____ acres.
 Total acreage _____ acres.

3. Does the farm operation require that tractors or other slow moving vehicles use public roads: yes no

If yes, which roads will be used:

4. Please estimate the number of vehicles entering or leaving your farm each day:
 ___ cars, vans and pickup trucks ___ heavy trucks.

FOREST PROPERTY

1. List the acreage of the property which is in the following uses:

Future timber or pulpwood harvesting	_____	acres
Christmas tree production and harvesting	_____	acres
Firewood production and harvesting	_____	acres
Conservation	_____ 34.1	acres
Residential uses	_____	acres
Other: _____	_____	acres

2. If tree harvesting is planned, what roads or rights-of-way will be used for access:

Department of Planning and Zoning
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035-5509
Attn: Mike Lynskey

April 10, 2015

Dear Mr. Lynskey,

Enclosed is our application for renewal of our Agricultural and Forestall District in Clifton, Virginia. This property, which has been owned by our family for roughly 46 years, consists of 34.1 acres of land. Approximately 27 acres are currently wooded and about 7 acres are covered in meadow and brush with a sparse tree cover. A ½ acre pond, stocked with fish and fed by a spring on the west side of the property, is also present.

All of the land is currently in an established agricultural and forestall district, but was previously zoned R-C.

Our property has three basic soil types. The predominant soil type is Manor Silt Loam, series 21C2, 21D2, and 21E2. The areas surrounding the stream and pond are Glenville Silt Loam, series 10B+. Near the southeast corner and adjacent to the stream bed that drains from the pond, soils are Mixed Alluvial, series 1AT.

The forest area has been maintained in an undisturbed manor since we acquired the land in 1961. The meadow area has been periodically cut over to maintain its open character.

The ½ acre pond was built and stocked with fish in 1963-1964. We feel that this land provides scenic vistas and improves the aesthetic quality of the neighborhood along Popes Head Road. In addition, it provides a haven for wildlife in the area. Deer, quail, fox, and rabbit inhabit the property. Blue heron, egrets, large turtles, and even beavers have been sighted on the pond.

I have also enclosed a check for \$50 for the application fee. Per your email and our phone discussion, I understand that you already have the original tax map and will add it when you receive this application, but I have also included a copy of this tax map that was used for our 2007 renewal. The borders indicated on that map are unchanged. The current district is due to expire on August 6th, 2015. If you have any questions, or if there is anything else needed for our application, please feel free to contact me. My daytime phone is 202-366-2558, or I can be reached via email at Larry.Blincoe@dot.gov.

Sincerely,



Larry Blincoe
1408 N. Vermont St.
Arlington, Virginia 22201
Ph: 703-527-0910 (h)
202-366-2558 (w)

RECEIVED
Department of Planning & Zoning

APR 14 2015

Zoning Evaluation Division



County of Fairfax, Virginia

MEMORANDUM

DATE: August 13, 2015

TO: Barbara C. Berlin, Director
Zoning Evaluation Division, DPZ

FROM: Pamela G. Nee, Planner V *PGN*
Planning Division, DPZ

SUBJECT: LAND USE ANALYSIS & ENVIRONMENTAL ASSESSMENT for:
JLB Associate **AR 90-S-004-03**

This memorandum, prepared by Kara Ellis, includes citations from the Comprehensive Plan that provide guidance for the evaluation of the above referenced application and lists and explains land use guidance and environmental policies for this property. The application requests renewal of an Agricultural and Forestal District for approximately thirty-four (34.1) acres. The extent to which the proposed use, intensity and development plan are consistent with the land use guidance contained in the Comprehensive Plan, is noted.

The citations are followed by a discussion of environmental concerns, including a description of potential impacts that may result from the proposed development. Possible solutions to remedy identified environmental impacts are suggested. Other solutions may be acceptable, provided that they achieve the desired degree of mitigation and are also compatible with Plan policies.

DESCRIPTION OF THE APPLICATION

The 34.1 acre JLB Associates Agricultural and Forestal District within the Springfield Magisterial District is currently up for renewal. The southern portion of the property is located in the Johnny Moore Community Planning Sector (P3) of the Pohick Planning District, and the triangular-shaped portion of land north of Popes Head Road is located in the Twin Lakes Community Planning Sector (P1). The Comprehensive Plan guidance is the same for both sectors. Remnants of an abandoned home built circa 1930, is now in ruins. Approximately 27 acres of the property are wooded and have been maintained in an undisturbed state since 1961. About seven acres of the property are covered in meadow and brush with a sparse tree cover. This area is mowed periodically to maintain its open character. The statement of justification states that the pond on the property was built and stocked with fish in 1963-1964.

LOCATION AND CHARACTER

The subject property is located in the western portion of the County in the Popes Head Creek watershed and zoned R-C (Residential-Conservation). The subject property is surrounded by land which is also zoned R-C and planned for residential use at 0.1-0.2 dwelling unit per acre (du/ac). Almost eight acres of the subject property have been identified as Resource Protection Area (RPA) along a tributary of Castle Creek. The stream valley corridor as it passes through the property is characterized by steep slopes on the southwest side. The tributary includes the stocked pond.

COMPREHENSIVE PLAN CITATIONS

Plan Map: Residential use at .1-.2 du/ac (5 to 10-acre lots) and Private Open Space

Plan Text: In the Fairfax County Comprehensive Plan, Area III Volume, 2013 Edition, Pohick Planning District, P3-Johnny Moore Community Planning Sector, as amended through March 24, 2015 under the heading, “Land Use,” beginning on page 45, the Plan states:

- “1. The entire P3 Planning Sector is located within the watershed of the Occoquan Reservoir. Protection of the Occoquan Reservoir water quality is the primary objective for this area. Land in this sector should be planned for residential use within a density range of .1 .2 dwelling unit per acre. This conforms with findings in the Occoquan Basin Study and is commensurate with predominant densities and the well-established character of existing development in this sector
3. Agricultural and forestal uses are alternatives to residential uses in Low Density Residential Areas. Such uses, depending upon the techniques used, can have positive impacts on water quality. Careful attention should be paid to insure that agricultural and forestal techniques are supportive of water quality goals for the Occoquan Reservoir watershed.. . .”

In the Fairfax County Comprehensive Plan, Area III Volume, 2014 Edition, Pohick Planning District, Overview, as amended through March 24, 2015 under the heading, “District-wide Recommendations, Environment,” beginning on page 5, the Plan states:

“The Pohick Planning District contains much of the wildlife habitat and rural landscape that remains in Fairfax County. Past actions taken by the governing body to protect water quality in the Occoquan Reservoir by restricting development to very low densities will help to perpetuate this character.. . .

Land use controls have been used effectively throughout this district to maintain high water quality standards. Low densities, limited expansion of public

facilities, and development designs that encourage preservation of water features and other sensitive lands will contribute to water quality protection. A land use approach to maintaining water quality should be continued and broadened throughout the district. The following guidelines are suggested to achieve this objective:

- Maintain very low density development in the portions of the district that drain into the Occoquan Reservoir and in the area above Burke Lake;

The Pohick Planning District remains one of the largest areas of wildlife habitat in the county. Unlike other areas, the possibility exists for this district to support an ecosystem that would include carnivores at the top of the food chain that need a large range in order to survive. Low density development goes far in maintaining this habitat; however, more controls may become necessary as the rest of the county continues to accommodate more people. Environmental Quality Corridor (EQC) boundaries should be defined and preserved not only to protect water quality, but for the preservation of valuable habitat.”

In the Fairfax County Comprehensive Plan, Policy Plan, 2013 Edition, Environment section as amended through July 1, 2014, on pages 7-8, the Plan states:

“Objective 2: Prevent and reduce pollution of surface and groundwater resources. Protect and restore the ecological integrity of streams in Fairfax County.. . .

- Policy a. Maintain a best management practices (BMP) program for Fairfax County and ensure that new development and redevelopment complies with the County’s best management practice (BMP) requirements. . . .
- Policy c. Minimize the application of fertilizers, pesticides, and herbicides to lawns and landscaped areas through, among other tools, the development, implementation and monitoring of integrated pest, vegetation and nutrient management plans. . . .
- Policy i. Monitor Fairfax County's surface and groundwater resources.
- Policy j. Regulate land use activities to protect surface and groundwater resources. . . .”

In the Fairfax County Comprehensive Plan, Policy Plan, 2013 Edition, Environment section as amended through July 1, 2014, on page 10, the Plan states:

“Objective 3: Protect the Potomac Estuary and the Chesapeake Bay from the avoidable impacts of land use activities in Fairfax County.

- Policy a. Ensure that new development and redevelopment complies with the County's Chesapeake Bay Preservation Ordinance. . .”

In the Fairfax County Comprehensive Plan, Policy Plan, 2013 Edition, Environment section as amended through July 1, 2014, on pages 14-16, the Plan states:

“Objective 9: Identify, protect and enhance an integrated network of ecologically valuable land and surface waters for present and future residents of Fairfax County.

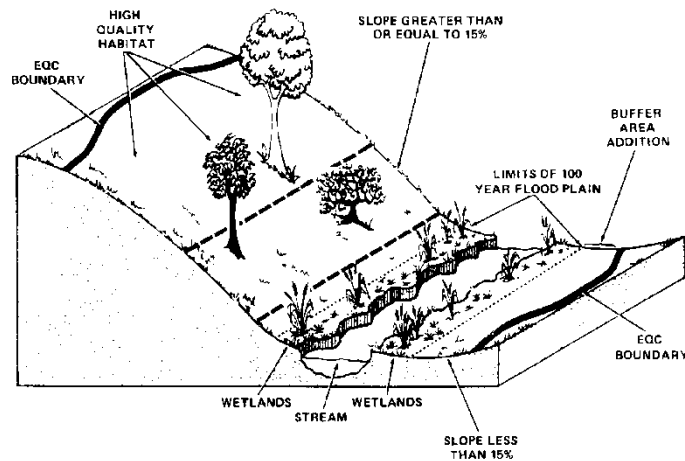
- Policy a: Identify, protect and restore an Environmental Quality Corridor system (EQC). (See Figure 4.) Lands may be included within the EQC system if they can achieve any of the following purposes:

- **Habitat Quality:** The land has a desirable or scarce habitat type, or one could be readily restored, or the land hosts a species of special interest. This may include: habitat for species that have been identified by state or federal agencies as being rare, threatened or endangered; rare vegetative communities; unfragmented vegetated areas that are large enough to support interior forest dwelling species; and aquatic and wetland breeding habitats (i.e., seeps, vernal pools) that are connected to and in close proximity to other EQC areas.
- **Connectivity:** This segment of open space could become a part of a corridor to facilitate the movement of wildlife and/or conserve biodiversity. This may include natural corridors that are wide enough to facilitate wildlife movement and/or the transfer of genetic material between core habitat areas.
- **Hydrology/Stream Buffering/Stream Protection:** The land provides, or could provide, protection to one or more streams through: the provision of shade; vegetative stabilization of stream banks; moderation of sheet flow stormwater runoff velocities and volumes; trapping of pollutants from stormwater runoff and/or flood waters; flood control through temporary storage of flood waters and dissipation of stream energy; separation of potential pollution sources from streams; accommodation of stream

channel evolution/migration; and protection of steeply sloping areas near streams from denudation.

- Pollution Reduction Capabilities: Preservation of this land would result in significant pollutant reductions. Water pollution, for example, may be reduced through: trapping of nutrients, sediment and/or other pollutants from runoff from adjacent areas; trapping of nutrients, sediment and/or other pollutants from flood waters; protection of highly erodible soils and/or steeply sloping areas from denudation; and/or separation of potential pollution sources from streams.

The core of the EQC system will be the county's stream valleys. Additions to the stream valleys should be selected to augment the habitats and buffers provided by the stream valleys, and to add representative elements of the landscapes that are not represented within stream valleys. The stream valley component of the EQC system shall include the following elements (See Figure 4):



A TYPICAL
ENVIRONMENTAL QUALITY CORRIDOR

Source: Fairfax County Office of Comprehensive Planning

- All 100 year flood plains as defined by the Zoning Ordinance;
- All areas of 15% or greater slopes adjacent to the flood plain, or if no flood plain is present, 15% or greater slopes that begin within 50 feet of the stream channel;
- All wetlands connected to the stream valleys; and

- All the land within a corridor defined by a boundary line which is 50 feet plus 4 additional feet for each % slope measured perpendicular to the stream bank. The % slope used in the calculation will be the average slope measured within 110 feet of a stream channel or, if a flood plain is present, between the flood plain boundary and a point fifty feet up slope from the flood plain. This measurement should be taken at fifty foot intervals beginning at the downstream boundary of any stream valley on or adjacent to a property under evaluation.

Modifications to the boundaries so delineated may be appropriate if the area designated does not benefit any of the EQC purposes as described above. In addition, some disturbances that serve a public purpose such as unavoidable public infrastructure easements and rights of way may be appropriate. Disturbances for access roads should not be supported unless there are no viable alternatives to providing access to a buildable portion of a site or adjacent parcel. The above disturbances should be minimized and occur perpendicular to the corridor's alignment, if practical, and disturbed areas should be restored to the greatest extent possible . . .”

In the Fairfax County Comprehensive Plan, Policy Plan, 2013 Edition, Environment section as amended through July 1, 2014, on page 18, the Plan states:

“Objective 10: Conserve and restore tree cover on developed and developing sites. Provide tree cover on sites where it is absent prior to development.

Policy a: Protect or restore the maximum amount of tree cover on developed and developing sites consistent with planned land use and good silvicultural practices.”

LAND USE ANALYSIS

The proposed renewal of this Agricultural and Forestal District is consistent with the goal of the Comprehensive Plan which seeks to maintain the rural character of this portion of the County.

ENVIRONMENTAL ASSESSMENT

Water Quality Protection

This entire district has been maintained in an undeveloped state since the time of the last renewal in 2007. A site visit to the property revealed erosion on the eastern side of the property which is likely caused by a lack of understory in the forest and by excessive grazing by deer. The buffer areas adjacent to the streams are well vegetated and are

Barbara Berlin
AR 90-S-004-03
Page 7

providing water quality protection. However, invasive species management may be appropriate.

A tributary associated with Castle Creek traverses the property from west to east. This stream system is Resource Protection Area (RPA), as defined under the County's Chesapeake Bay Preservation Ordinance (CBPO), as well as Environmental Quality Corridor (EQC), as defined under the Policy Plan of the Comprehensive. The EQC is slightly more extensive than the RPA and includes areas with steep slopes adjacent to the stream channel. See the attached map.

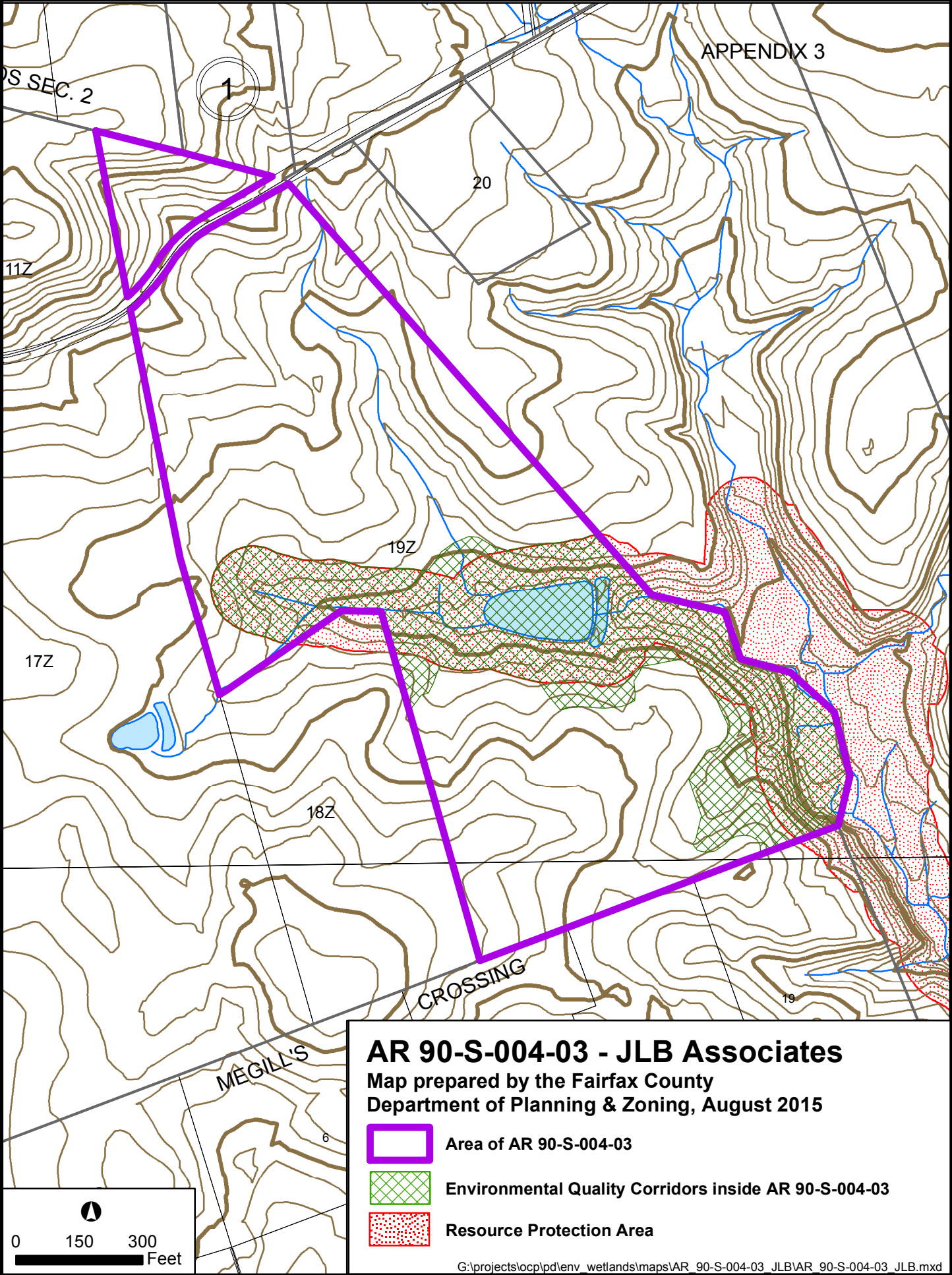
No agricultural or silvicultural activity is currently occurring on the subject property, and for that reason the Northern Virginia Soil and Water Conservation District will not be providing a Soil and Water Quality Plan for this application.

No Forestry Management Plan was prescribed by the Virginia Department of Forestry's Best Management Practices Handbook for Forestry Operations due to the lack of silvicultural activities on this site.

The proposed renewal of the Agricultural and Forestal District is consistent with the environmental goals and objectives of the Comprehensive Plan.

PGN: KE

Attachment



AR 90-S-004-03 - JLB Associates

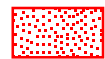
Map prepared by the Fairfax County
Department of Planning & Zoning, August 2015



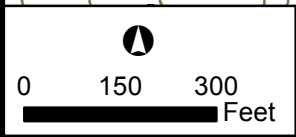
Area of AR 90-S-004-03



Environmental Quality Corridors inside AR 90-S-004-03



Resource Protection Area



Bettina Ring
State Forester



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORESTRY

12055 Government Center Parkway

Suite 904

Fairfax VA 22035

703-324-1489

June 1, 2015

AR-90 – S - 004-02
DOF# FAX99001

Mr. Lawrence J. Blincoe
1408 N. Vermont St..
Arlington, VA 22201

Dear Mr. Blincoe,

Thank you for the opportunity to walk your property in Fairfax. It is largely as I remember it. Reviewing the plan I wrote in 2007, I see no need to revise it. Non-native Invasive species and abundant deer continue to be issues as they are throughout the county. Otherwise the existing trees are healthy and continue to grow.

Per our conversation today, I will supply the Fairfax County Department of Planning and Zoning a copy of this letter confirming that the existing plan on file continues to be applicable. If you have any questions in this matter or regarding forest management, please do not hesitate to call/

Respectfully,



James McGlone
Urban Forest Conservationist

cc: DPZ; file



EVERETTE L. KLINE, JR.
Regional Forester

COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORESTRY

470 George Dean Drive
Charlottesville, Virginia 22903
(434) 977-5193
FAX (434) 296-3290

July 3, 2007

AR-90 – S - 004-02
DOF# FAX99001

Mr. Lawrence J. Blincoe
1408 N. Vermont St..
Arlington, VA 22201

Dear Mr. Blincoe,

Thank you for the opportunity to walk your property.

Enclosed is a forest management plan for your property, which has been prepared based on your objectives and sound forest management practices. Your property has many natural resource features making it a valuable addition to the Agriculture and Forestal program in Fairfax County.

The aerial photo map accompanying this plan is intended to support the recommendations made and clarify the areas of your property discussed in the plan. They are not intended for determining property boundaries.

If you have any questions about this plan, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "James McGlone".

James McGlone
Urban Forest Conservationist



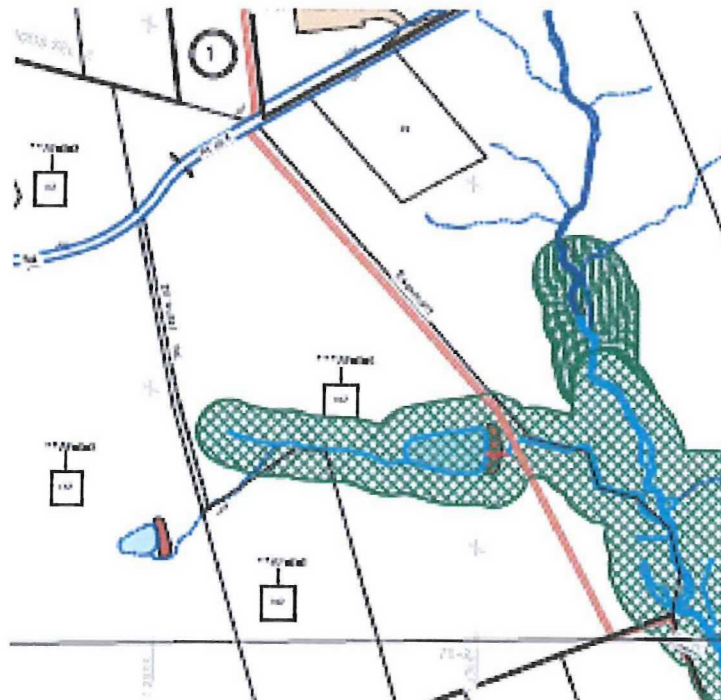
REPORT ON FORELANDS
OF
JLB Associates
3907 N. Washington St.
Arlington VA 22207

Location: The property is .2 miles west of Pocol Drive on both sides of Popes Head Road. This property is A&F AR-90 – S - 004-02.

Examined by: James McGlone, Urban Forest Conservationist

Landowner's Objectives: To maintain the property as an Agriculture and Forestal District; to enhance wildlife habitat; to maintain healthy trees for a quality forest.

Introduction: This property is approximately 34.1 acres. It is mostly forested, but the western portion appears to have been partially cleared fairly recently. The property is bounded on the east by a petroleum pipeline easement and a small stream. The stream bisects the property and is dammed to form a small pond. The stream, pond and 100 feet on either side have been designated a Resource Protection Area by Fairfax County (see map below). This designation precludes the removal of any vegetation from this area, except by permit from the county or as part of ongoing silviculture.



Forest Type: This is a mixed upland and riparian hardwood forest dominated by tulip poplar (*Liriodendron tulipifera*) and red maple (*Acer rubrum*). The area north of Popes Head Road has a larger component of northern red oak (*Quercus rubra*), and white oak (*Quercus alba*). The area south of Popes Head Road and north of the stream has fewer oaks but adds some beech (*Fagus grandifolia*) and black cherry (*Prunus serotina*). In the riparian area near the stream black walnut (*Juglans nigra*), persimmon (*Diospyros virginiana*), sweet gum (*Liquidambar styraciflua*) and hickory (*Carya spp.*) were observed along with the poplar, maple, beech and a few oaks. South of the stream the forest is dominated by poplar, maple, hickory and a few oak; beech is sub-dominant but is working its way into the canopy. American holly (*Ilex opaca*), flowering dogwood (*Cornus florida*), and one American beauty berry (*Callicarpa americana*) were seen in the understory along with beech, sweet gum and a few hickory saplings.

Invasive species: In addition to the native species listed above there are a number of non-native invasive species: Porcelain-berry (*Ampelopsis brevipedunculata*), oriental bittersweet (*Celastrus orbiculatus*); honeysuckles (*Lonicera spp.*); Tree-of-heaven (*Ailanthus altissima*), Japanese stilt grass (*Microstegium vimineum*), privet (*Ligustrum sinense*); and Multiflora rose (*Rosa multiflora*). Invasive plant species generally provide little habitat for wildlife and push out native plants. The porcelain-berry, oriental bittersweet and honey suckle vines are of particular concern since they will kill mature trees.

Quality/Size: The timber quality of this area is fair to good. There are a number large saw timber size oak, hickory and poplar trees.

Wildlife Habitat: The combination of forest, pond and field creates a mosaic of habitat types that is very beneficial to wildlife. Blue birds were observed in the field; snakes, frogs and turtles were seen in and around the pond; and there were many deer tracks observed through out the property. The nuts and berries produced by both native and non-native plants make this area a valuable source of food for wildlife. Flowering plants in the field provide a nectar source for birds, bees, and butterflies.

Recreation / Aesthetics: this area is desirable for passive recreation such as walking, photography, bird and wildlife watching, and the general observation of nature. The trails also provide an opportunity for horse back riding.

Recommendations: this area is currently meeting the landowners' objectives, although the prevalence of invasive species is troubling. To the extent possible these invasive species should be controlled or removed. Special attention should be paid to the vines as they can overwhelm and kill the trees in this area. The multi flora rose and Japanese stiltgrass will shade and out-compete tree seedlings in the forest making regeneration difficult. Fact sheets on the invasive plants, including control methods are attached to this report.

Lack of regeneration of canopy species is also troubling. Advanced regeneration was seen only for beech and sweet gum. This means the forest will eventually succeed to these two species. The lack of regeneration is most likely related to deer browse. The oaks on the property seem particularly hard hit as even under seed trees there is no regeneration.

Deer Management. The most pressing problem of sound forest management in Fairfax County is managing deer herds. Due to deer browsing we are missing an entire age class of trees throughout the County and the youngest canopy trees in most forest parcels are about 30 years old. That equates to more damage than gypsy moths (and probably all other mortality sources

combined) have been able to inflict. While the deer do not threaten our existing trees, they do make regeneration of the forest impossible and lead to the prospect that forests will disappear from Fairfax County over the next hundred years.

There are two solutions. First the property can be fenced and the deer removed. The second is to reduce the number of deer on the property through hunting. Relocation is not possible since all white tail deer habitat is full, so there is nowhere to send them. Managing fertility has proven effective only in captive deer herds. I am enclosing a brochure on deer management in Fairfax County.

Any property owner can bowhunt on their property or allow bowhunting on their property anywhere in Fairfax County. There is no minimum acreage required. Fairfax County has a longer bow season than any other county in Virginia. Ours begins the third Saturday in September and continues through the last Saturday in March. As far as safety goes, the only people who get hurt in bowhunting are the hunters themselves. The Fairfax County Animal Control office reports they have not been able to find an example of a non-participant being injured. Not just here, but anywhere. The Virginia Department of Game and Inland Fisheries (www.dgif.virginia.gov) can provide citizens with details on seasons and other requirements. Property owners do not need a hunting license to hunt on their own property. In cases of extreme damage, the VDGIIF can issue a kill permit, which allows taking of deer outside normal hunting seasons

There are organizations which cater to urban deer control on private property. You can contact the local sport hunting groups through the Virginia Bowhunters Association on the web <http://www.geocities.com/~vbarchers/>. Another local organization, Northern Virginia Suburban Whitetail Management (www.deerdamage.org), focuses on deer management rather than sport hunting and can help you work with the Department of Game and Inland Fisheries to control deer populations on your property.

Forest Health:

Forest diseases prevalent in the Northern Virginia area: Gypsy moth (oak trees), Woolly adelgid (hemlock trees), Anthracnose (dogwood and sycamore trees) and Emerald Ash Borer (ash trees). The best way to combat outbreaks of these diseases is to know your forest. Walk it frequently and note trees that are looking sickly. Different diseases/ infestations manifest themselves in different ways, some of the common characteristics to note are: severe defoliation, curling discolored leaves (look moldy), masses of insects present in larval forms (worms) or insect fecal matter (masses of black or white droppings. Small holes in the trunk of a tree generally indicate borers and require immediate attention. If you suspect your trees are being attacked by disease or pests contact a certified arborist, the Fairfax County Urban Forest Management Branch at 703-324-1770, the county extension agent at 703-324-5369 or this office at 703-324-1489.

Wildfire: Protection of this property from wildfire is essential. Wildfire destroys valuable timber and property. Should wildfire occur on this or adjacent property call 911 immediately to report it to the Fairfax County Fire and Rescue Department.



Virginia Department of Forestry

Protecting and Developing Healthy, Sustainable Forest Resources

JLB Associates A&F AR 90 - S - 004 - 02



Enter Comments Here Map Prepared for Agricultural and Forestal District Forest Management Plan by James McGlone

Map By:

Report Date: Tuesday, July 03, 2007

FAIRFAX COUNTY, VIRGINIA
Soil Science Office

MEMORANDUM

TO: Barbara A. Byron, Director
Zoning Evaluation Division
Office of Comprehensive Planning
DATE: December 5, 1990

FROM: Nelson Thurman, Soil Scientist *Nelson Thurman*
Soil Science Office
Department of Extension and Continuing Education

SUBJECT: Agricultural and Forestal District Application AF 90-S-004
Tax Map Number 66-4-((1))-19

A soil evaluation report for an Agricultural and Forestal District application has been prepared for the above referenced tract. The attached soil map is based on recent revisions to the Fairfax County Soil Identification Maps. This office did not conduct an on-site evaluation of the tract.

The site consists primarily of, gently sloping hilltops and moderate to steep sideslopes. Drainageways across the north and central portions of the tract radiate from a pond near the east center of the tract. Overall drainage is from west and northwest to the east across the site, draining into Castle Creek. A small area of alluvial soils associated with the creek occurs along the southeast edge of the site. A seasonal high water table can be expected in the drainageway areas. The upland soils are highly susceptible to erosion.

The soils mapped on this tract are suitable for woodland and wildlife uses. The landowner should consult with the State Forester prior to any future harvest to ensure that conservation measures are taken to protect the soil from erosion during and after timber harvest.

A soil map, legend, description of soil characteristics, and list of land use capabilities are included in the accompanying report.

NT/wp: 90s004.af

Attachment

cc: Bruce Douglas, Branch Chief, Environmental and Heritage Resources
Branch, Office of Comprehensive Planning
Cindy Zimar, State Forester, Virginia Department of Forestry
Norman Jeffries, Director, Northern Virginia Soil and Water
Conservation District

RECEIVED
OFFICE OF COMPREHENSIVE PLANNING

DEC 7 1990

ZONING EVALUATION DIVISION

Agricultural and Forestal Application No.: AF 90-S-004
Page two

SOIL SERIES IDENTIFICATION

Soil Map Symbol	Soil Series Name	Acreage	Percent Of Site	Land Capability Class
1A+	Mixed Alluvial, 0 - 2%	0.9	2	Vw
10B+	Glenville, 2 - 7%	6.4	19	IIw
20B+	Meadowville, 2 - 7%	2.6	8	IIw
18D1	Rocky Land, 14 - 25%	1.1	3	VIIe
21C2, C3	Manor, 7 - 14%	11.9	35	IVe
21D2	Manor, 14 - 25%	1.4	4	VIe
21E2	Manor, > 25%	1.6	4	VIIe
55B2	Glenelg, 2 - 7%	7.0	21	IIe
69B2	Enon, 2 - 7%	1.2	4	IIe

POTENTIAL SOIL PROBLEMS

	<u>Yes/No</u>	<u>Soil No(s).</u>
A. High Erodibility	<u>Y</u>	<u>21, 55, 69, 18</u>
B. High Seasonal Water Table	<u>Y</u>	<u>1, 10, 20</u>
C. Shallow Depth to Rock or Other Restrictive Layer	<u>Y</u>	<u>69, 18</u>
D. Marginal/Poor Drainage	<u>Y</u>	<u>1, 10, 20</u>
E. Stoniness	<u>N</u>	
F. Poor Moisture Retention	<u>Y</u>	<u>21, 18</u>
G. Flood Plain (Alluvial)	<u>Y</u>	<u>1</u>
H. Hydric Soils/Potential Wetlands	<u>Y*</u>	<u>1*</u>

* Mixed Alluvial Soils (1) are considered hydric soils in Fairfax County and may contain nontidal wetlands. However, an on-site evaluation was not made to determine the actual occurrence or extent of hydric soils in this area.

Agricultural and Forestal Application No: AF 90-S-004
Page three

LAND CAPABILITY CLASS

Land capability classes are general groupings of soils that indicate suitability for agricultural uses. Soils are grouped according to similarities in properties that affect use, productive capabilities, management requirements, and risk of soil damage or degradation. Permanent soil characteristics used in determining the soil capability class include slope, texture (relative amounts of sand, silt, and clay), depth to hard rock or dense restrictive layer, permeability, moisture retention capacity (ability to retain and supply water for plant use), type of clay minerals present, depth to seasonal high water table, and effects of soil erosion.

Capability classes are designated by Roman numerals I through VIII (Attachment). Soils in class I are typically suitable for most uses, with the least risk of damage. Potential soil problems and management needs increase progressively with increasing class. The land capability subclass, designated by a small letter, is used to identify the major soil property affecting use and management requirements.

A brief description of the land capability classes found on this tract follows.

Class II

17.2 acres, 52% of Site

These soils are typically deep (greater than 6 feet), gently sloping (2-7%), permeable, and moderately fertile. Practices such as cultivating along contours, grassed waterways and surface grading are necessary to address moderate erosion (IIe) and seasonal wetness (IIw) problems. Glenelg (55B2) and Enon (69B2) are class IIe; Glenville (10B+) and Meadowville (20B+) are class IIw.

Class IV

11.9 acres, 35% of Site

These soils are subject to severe erosion (IVe), have wetness problems for extended periods of time (IVw), or have a dense, plastic clay subsurface that restricts rooting depth (IVs). Use for cultivation may be somewhat limited on these soils. With sufficient conservation practices, these soils are suitable for pasture, woodland, and wildlife uses. The 21C2 and 21C3 (Manor) units are class IVe.

Class V

0.9 acres, 2% of Site

These alluvial soils are slowly permeable, poorly drained and subject to flooding. The soils are typically saturated for extended periods of time, limiting cultivation. Because of the relatively flat, low-lying landscape, artificial drainage may not be feasible. These soils are suitable for wildlife and woodland. Mixed Alluvial (1A+) is class Vw.

Class VI and VII

4.1 acres, 11% of Site

These soils are highly susceptible to erosion (VIe) and/or are shallow to rock with numerous boulders and outcrops (VIIs). These soils are best suited for limited grazing, woodland or wildlife. The 21D2 (Manor) is class VIe and 21E2 (Manor) is class VIIe.

ATTACHMENT
RELATIONSHIP OF LAND CAPABILITY CLASSES
TO SAFE LAND USE

Land Capability Class	Land Uses							
	Wildlife	Woodland	Grazing		Cultivation			
			Moderate	Intensive	Limited	Moderate	Intensive	Very Intensive
I	Suitable for all uses. Cultivation requires only ordinary farm practices.							
II	Suitable for all uses but simple conservation practices are needed when cultivated.							
III	Suitable for all uses but intensive conservation practices are needed if cultivated.							
IV	Suitable for all uses but cultivation should be limited.							
V	Suitable for pasture, woodland, or wildlife.					Generally not suited for cultivation.		
VI	Suitable for pasture, woodland, or wildlife.					Generally not suited for pasture unless protected.		
VII	Suitable for woodland or wildlife.					Not suited for pasture unless adequately protected.		
VIII	Suitable for wildlife or recreation uses.					Not suitable for economic production of cultivated crops, pasture or woods.		

Land Capability Class - Capability classes are roman numeral designations. Classifications are based on the combined effects of climate and soil characteristics on the risk of soil damage, productivity capacity, and soil management requirements. These interpretive classes are for agriculture uses.

Capability Subclass - Capability subclasses are letter designations that follow the roman numeral class. These categories define the dominant restrictive soil characteristic or limitations to use and management within a given class.

- e - susceptibility to erosion
- w - seasonal high water table/ excessive wetness
- s - restrictive zone (dense layers, stones, bedrock, low water holding capacity, low fertility, etc.) within the rooting depth of common agricultural plant species

Source: "Land-Capability Classification." USDA Soil Conservation Service Agricultural Handbook No. 210.

BOARD OF DIRECTORS

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Patricia McAleer

Director



COMMONWEALTH of VIRGINIA

Northern Virginia Soil and Water Conservation District

12055 Government Center Parkway • Suite 905 • Fairfax, VA 22035-5512

Diane Hoffman

TELEPHONE

703/324-1460

FAX

703/324-1421

EMAIL

nvwcd@erols.com

RECEIVED
DEPARTMENT OF PLANNING AND ZONING

May 26, 1999

MAY 28 1999

TO : Barbara Byron
Director, Zoning Evaluation Division, OCP

FROM : Wilfred D. Woode
Senior Conservation Specialist

ZONING EVALUATION DIVISION

RE : Conservation report on Agricultural and Forestal District
renewal application - AR 90-S-004

This is a 34.10-acre single parcel property, located on both sides of Popes Head Road, approximately 1,000 feet west of its intersection with Pocol Drive. Map reference is 66-4- /01/ /0019

About 20 acres of this property is currently densely wooded, and 14 acres are in meadow and brush with few trees. There is no active agricultural land use onsite. As such, a soil and water quality conservation plan based on agricultural best management practices (BMPs) will be impractical. However, maintaining this piece of land in its current passive land use makes a vital environmental contribution to the Popes Head Creek Watershed and the Occoquan Watershed as a whole. Implementation of a management plan for the wooded areas and wildlife enhancement can be obtained from the Department of Forestry.

There is an old pond about half an acre in size at about the center of the parcel. It intercepts an intermittent drainage flowing in a west-east direction. The pond outlet shows no sign of active scouring. It empties into a stabilized channel having a pool-riffle morphology.

There was no noticeable drop in the pond water level, but a constant water flow from the barrel (horizontal pipe that goes through the dam) was observed at the time of my visit. I recommend a professional inspection of the riser (vertical pipe that controls the water level in the pond) and barrel, to determine if there is a leak or need for any maintenance work.

There is evidence of abundant aquatic life such as fish and frogs. The presence of animal activities such as foot prints and droppings suggest that the pond environment provides a good watering and hunting area for wildlife.



MAY 28 1999

Barbara Byron
AR 90-S-004
Page 2
May 26, 1999

ZONING EVALUATION DIVISION

A dense vegetative growth exists around the edge of the pond providing an ideal habitat for water-dependent, as well as, water-loving animals. The vegetation also plays an important role in preventing erosion due to wave action around the edge of the pond.

An access road cuts through the property along the eastern side. Distinct gully erosion was observed at various locations, especially in areas where the road gradient gets steeper. Tracks of mountain or dirt bike tires along this access road makes it more vulnerable to erosion. I suggest that waterbars be installed. Waterbars are BMPs used to control erosion on paths by diverting runoff into adjacent wooded areas. The attached illustration shows the proper design of waterbars.

These waterbars are berms built with soil, angled across the road at varying intervals. The chart below gives recommendation of the intervals at which these waterbars can be built depending on the slope. They should be high enough (about 6 inches) to prevent runoff flowing over.

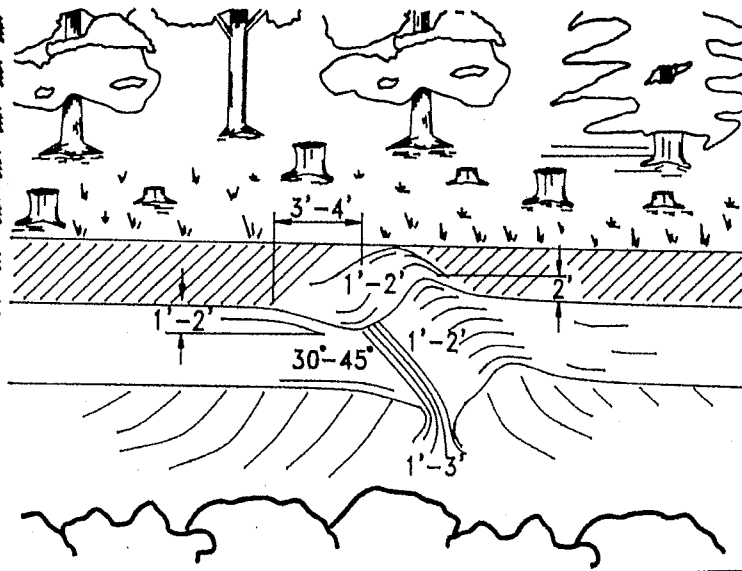
RECOMMENDED SPACINGS FOR WATER-BARS

Grade of Road (percent)	Distance between Water Bars(ft.)
2	250
5	135
10	80
15	60
20	45
30	35

Since it is evident that bikers use that road for recreational purposes, plans should also be made for regular maintenance of the installed waterbars.

- Waterbars should be installed at a 30 to 45 degree angle downslope, with ends open to prevent water accumulation behind them. A permanent vegetative cover should be established on exposed roads, trails and landings greater than 5% slope or subject to erosion. Scattered logging slash or other mulch material which covers the trail may supplement waterbars and seedings. The figure depicts the proper design of a waterbar:

Waterbar



SKID TRAILS

Guidelines Portab

Log Decks are the areas and loaded prior to ship severe compaction. Rur pre-harvest plan and on is completed. Soil comp to establish an adequa Revegetation of Bare Sc

Portable sawmill sites h of the conditions typical is the disposal of the v operation. Sawmill resic circumstances and care i

SPECIFICATIONS 1 SAWMILL SITES


- Locate sites for dec road construction.
- Locate portable mill
- Prevent stormwater from entering stream
- Decks and yards sho drainage and shou quickly.
- A diversion ditch ar flow of water and di
- Do not allow engin servicing equipmen hydraulic fluids, a proper storage and r



County of Fairfax, Virginia

MEMORANDUM**DATE:** May 19, 2015

TO: Barbara Berlin, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Michael A. Davis, Acting Chief 
Site Analysis Section
Department of Transportation

FILE: 3-4 (AF 90-S-004)

SUBJECT: Transportation Impact

REFERENCE: AR 90-S-004-03; JLB Associates
Land Identification Map: 066-4 ((1)) 19Z

This application does not represent any conflict with the Countywide Plan transportation recommendations and would have no traffic impact. No projects that would affect the site are included in current construction programs. Therefore, this department has no objections to approval of this application.

MAD/lah

cc: Michael H. Lynskey, DPZ



FAIRFAX COUNTY PARK AUTHORITY

M E M O R A N D U M

TO: Barbara Berlin, AICP, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Sandy Stallman, AICP, Manager
Park Planning Branch, PDD

DATE: 16 July 2015

SUBJECT: AR 90-S-004-03, JLB Associates
Tax Map Number: 66-44((1)) 19Z

The Fairfax County Park Authority supports Agricultural and Forestal Districts as they further objective 100 of the Park Authority's Policy Manual:

"To protect and preserve the physical, cultural and natural heritage of Fairfax County for the enjoyment and education of the citizenry."

The Park Authority staff has reviewed the above referenced plan. Based on that review, staff has determined that this application bears no adverse impact on the land, resources, facilities or service levels of the Park Authority.

FCPA Reviewer: Andrea L. Dorlester / Paul Ngo
DPZ Coordinator: Michael Lynskey

Copy: Cindy Walsh, Director, Resource Management Division
Michael Lynskey, DPZ Coordinator
Chron File
File Copy

FAIRFAX COUNTY, VIRGINIA**MEMORANDUM**

DATE: June 9, 2015

TO: Members, Planning Commission
Members, Board of Supervisors

FROM: Agricultural and Forestal Districts Advisory Committee

SUBJECT: Recommendations on the JLB Local Agricultural and Forestal District;
Application AR 90-S-004-03

The Agricultural and Forestal Districts Advisory Committee met on June 9, 2015 to review the application to renew the JLB Local Agricultural and Forestal District (Application AR 90-S-004-03). The Committee found the following:

- The JLB Local Agricultural and Forestal District meets the minimum district size contained in Section 115-3-2;
- The JLB Local Agricultural and Forestal District conforms with the Policy and Purpose of Chapter 115 of the Fairfax County Code;
- The JLB Local Agricultural and Forestal District fulfills all of the applicable criteria in Group A, and fulfills three (3) of the criteria in Group B, found in Chapter 115 of the Fairfax County Code.

The Agricultural and Forestal Districts Advisory Committee unanimously recommends that Appendix F of the Fairfax County Code be amended to renew the JLB Local Agricultural and Forestal District. The Advisory Committee further recommends that the establishment of this district be subject to the Ordinance Provisions which are contained in Appendix 1 of the staff report.

Selected provisions from the Fairfax County Code, Chapter 115. For the full, unabridged, code please visit the website of the Fairfax County Planning and Zoning Department or view a copy in person at the Fairfax County Planning and Zoning office.

ARTICLE 1.

In General.

Section 115-1-1. Short title.

This chapter may be referred to as to "Local Agricultural and Forestal Districts Ordinance" of the County of Fairfax and is to become effective June 30, 1983. (13-83415.)

Section 115-1-2. Policy and purpose.

It is the policy of Fairfax County to conserve and protect and to encourage the development and improvement of its important agricultural and forest lands for the production of food and other agricultural and forest products. It is also Fairfax County policy to conserve and protect agricultural and forest lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, aesthetic quality, and other environmental purposes. It is the purpose of this Chapter to provide a means by which Fairfax County may protect and enhance agricultural and forest lands of local significance as a viable segment of the Fairfax County economy and as an important economic and environmental resource. (13-83-115.)

Section 115-1-3. Authority.

The authority for the establishment of a program of local agricultural and forestal districts in Fairfax County is derived from Title 15.1, Chapter 36.1 of the *Code of Virginia*, entitled the "Local Agricultural and Forestal Districts Act." (13-83-115.)

ARTICLE 3.

District Applications.

Section 115-3-2. Minimum district size, district boundaries.

An agricultural and forestal district shall be comprised of no less than twenty (20) acres, all of which shall be located in Fairfax County. (13-83-115; 21-95-115.)

Section 115-4-8. Provisions of local district ordinances.

Any district ordinance adopted by the Board in order to establish or renew an agricultural and forestal district shall include the following provisions:

- a) That no parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance establishing such district for eight (8) years from the date of adoption of such ordinance. This provision shall not be construed to restrict expansion of or improvements to the agricultural or forestal use of the land or to prevent the construction of one (1) additional house within the district, where otherwise permitted by applicable law, for either an owner, a member of an owner's family, or for a tenant who farms the land;
- b) That no parcel added to an already established district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight (8) years from the date of adopting of the original district ordinance;
- c) That land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural or forestal value assessment on such land pursuant to Chapter 4, Article 19 of the Fairfax County Code and to *Code of Virginia* , Section 58-769.4 et seq., if the requirements for such assessment contained therein are satisfied;
- d) That the district shall be reviewed by the Board of Supervisors at the end of the eight-year period and that it may by ordinance renew the district or a modification thereof for another eight-year period. No owner of land shall be included in any agricultural and forestal district of local significance without such owner's written approval; and
- e) Any other provisions to the mutual agreement of the landowner and the Board of Supervisors that further the purpose of this Chapter. (21-95-115.)

Section 115-4-9. Renewal of local districts.

- a) Local districts may be renewed by the adoption by the Board of Supervisors of a district ordinance as described in Section 115-4-8.
- b) No land may be included in a renewed district without the written approval of all the owners of such land. Notice of such approval shall be given by the completion, signing and submission of an application as provided in Article 8 of this Chapter. Such application should be submitted at least six (6) months before the expiration date of the existing district which is to be considered for renewal, but in no case shall it be submitted later than sixty (60) days before such expiration date.

- c) When a renewal application has been submitted and accepted, the procedures outlined in Article 4 of this Chapter shall be used to review such application.
- d) If no renewal application is submitted and accepted by the deadline required in Section 115-4-9(b), the district shall not be renewed; however, owners formerly in a district may reapply pursuant to Section 115-3-1 at any time.
- e) If a renewal application signed by all owners of parcels proposed for inclusion in a renewed district is submitted and accepted by the deadline required in Section 115-4-9(b), but the Board of Supervisors fails to act on the application by the expiration date of the district, such district, including only those parcels proposed for renewal, shall continue; and all provisions of the district ordinance and this Chapter shall apply until such time as the Board of Supervisors makes its decision whether or not to renew the district as proposed.
- f) If a district is not renewed, the lands that were formerly in the district shall no longer be restricted in use as required by the district ordinance, shall no longer qualify for an agricultural or forestal value assessment, nor shall other provisions of the district ordinance any longer apply to such lands. (21-95-115.)

ARTICLE 5.

Criteria for Establishment, Modification, Renewal or Termination of a District.

Section 115-5-1. Criteria.

The following criteria shall be used as a guide in recommendations and decisions on whether to establish, modify, renew, continue or terminate local agricultural and forestal districts:

Criteria Group A: All the following criteria should be met by all proposed districts:

- 1) All district acreage should be currently devoted to agricultural use or forestal use or
should be undeveloped and suitable for such uses, except that a reasonable amount of residential or other use, related to the agricultural or forestal use and generally not more than five (5) acres per district, may be included.
- 2) All lands in the district should be zoned to the R-P, R-C, R-A or R-E District.
- 3) The district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .1-.2 dwelling unit per acre, .2 dwelling unit per acre, .2-.5 dwelling unit per acre, .5-1 dwelling unit per

acre, Private Recreation, Private Open Space, Public Park, Agriculture, Environmental Quality Corridor. Lands not planned as such may be considered for a district if they meet at least three (3) of Criteria Group B.

- 4) A majority of the surrounding land within one-quarter mile of the district should be planned according to the Comprehensive Plan for uses identified in (a)(3), above. Exceptions may be made for lands located at the edge of a planned growth area or which meet at least three (3) of the criteria of Criteria Group B, if no conflicts with surrounding uses, existing and planned, are evident or likely.
- 5) All farms to be included in a district should be at least twenty (20) acres in size. A farm may include several parcels of land; however, all parcels must have the same owner or else owners must be members of the same immediate family or a family trust or family corporation. A farm must include at least fifteen (15) acres of land in agricultural use. A farm may include noncontiguous parcels within one (1) mile of the core acreage (the largest parcel or group of contiguous parcels or the parcel where the farm buildings are located) as long the noncontiguous parcels are predominately agricultural in use and as long as the total acreage of each individual farm (including contiguous and noncontiguous lands) is at least twenty (20) acres.
- 6) All other properties not included in a farm as defined in (a)(5), that is, forested and partially forested properties, and properties with less than fifteen (15) acres in agricultural use, should be at least twenty (20) acres in size. These properties may contain several parcels; but all parcels must be contiguous, and all must have the same owner, or else owners must be members of the same family or a family trust or family corporation.
- 7) Approximately two-thirds of the land in agricultural use in the district should contain Class I, II, III or IV soils as defined by the USDA Soil Conservation Service. Districts having more than one-third of the land in agricultural use containing Classes V--VIII soils may be considered if such lands have been improved and managed to reduce soil erosion, maintain soil nutrients, and reduce nonpoint source pollution.
- 8) Agricultural land in the district should be used in a planned program of soil management, soil conservation and pollution control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients, control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients, control brush, woody growth and noxious weeds on crop land, hay land and pasture land, and reduce nonpoint source pollution. Exceptions to this criterion may be made only for those agricultural lands which upon initial application for the establishment of a district are not used in such a program but for which a

conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District.

- 9) Forest land and undeveloped land in the district should be kept in an undisturbed state, or if periodically harvested or experiencing erosion problems, shall be used in a planned program of soil management, soil conservation and pollution control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients and reduce nonpoint source pollution. Exceptions to this criterion may be made only for those lands which upon initial application for the establishment of a district are not used in such a program but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District or the Virginia Division of Forestry.
- 10) There should be evidence of a history of investment in farm or forest improvements or other commitments to continuing agricultural or forestal use in the district. In particular, districts with no history of investments in farm or forest improvements must evidence a firm commitment to agricultural or forest use for at least the life of the district.

Criteria Group B: In addition to meeting all of Criteria Group A, all properties in the district should meet as well at least two (2) of the following criteria:

- 1) Farm and/or forest products have been regularly produced and sold from the property during the last five (5) years.
- 2) The land provides scenic vistas, improves the aesthetic quality of views from County roads or contributes to maintaining the existing rural character of an area.
- 3) The property contains an historically and/or archaeologically significant site which would be preserved in conjunction with the establishment of a district. A site that is listed on the Federal Registry of Historic Places, the State Registry of Historic Places and/or the County Inventory of Historic Places will be considered historically and/or archaeologically significant. A property which contains a site that is considered to be archaeologically significant by the County Archaeologist, or is located in an area with a high potential for archaeological sites, provided that the property owner has agreed to permit the County Archaeologist access to the site, may also be considered historically and/or archaeologically significant.
- 4) Farming or forestry operations practice unique or particularly effective water pollution control measures (BMP's).
- 5) The land is zoned R-A, R-P or R-C.
- 6) The land is entirely in a permanent open space easement. (13-83-115; 21-95-115.)

APPLICABLE SECTIONS OF THE CODE OF VIRGINIA,
TITLE 58.1, CHAPTER 32 – REAL PROPERTY TAX
 (current as of September 12, 2013 –
 refer to online version of the Code for up-to-date information)

§ 58.1-3230. Special classifications of real estate established and defined.

For the purposes of this article the following special classifications of real estate are established and defined:

"Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; and nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit or otherwise shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to horticultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to forest use" shall mean land, including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.). Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#). Real property that has been designated as devoted to forest use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to forest use. In determining whether real property is devoted to forest use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, including public or private golf courses, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § [58.1-3666](#), (v) riparian buffers as defined in § [58.1-3666](#), (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) and the local ordinance. Prior, discontinued use of property shall not be considered in determining its current use. Real property that has been designated as devoted to open-space use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to open-space use. In determining whether real property is devoted to open-space use, zoning designations and special use permits for the property shall not be the sole considerations.

§ 58.1-3233. Determinations to be made by local officers before assessment of real estate under ordinance.

Prior to the assessment of any parcel of real estate under any ordinance adopted pursuant to this article, the local assessing officer shall:

1. Determine that the real estate meets the criteria set forth in § [58.1-3230](#) and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he may request an opinion from the Director of the Department of Conservation and Recreation, the State Forester or the Commissioner of Agriculture and Consumer Services;
2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five acres; except that for real estate used for purposes of engaging in aquaculture as defined in § [3.2-2600](#) or for the purposes of raising specialty crops as defined by local ordinance, the governing body may by ordinance prescribe that these uses consist of a minimum acreage of less than five acres, (ii) forest use consists of a minimum of 20 acres and (iii) open-space use consists of a minimum of five acres or such greater minimum acreage as may be prescribed by local ordinance; except that for real estate adjacent to a scenic river, a scenic highway, a Virginia Byway or public property in the Virginia Outdoors Plan or for any real estate in any city, county or town having a density of population greater than 5,000 per square mile, for any real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown chartered in 1691, the governing body may by ordinance prescribe that land devoted to open-space uses consist of a minimum of one quarter of an acre.

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. However, for purposes of adding together such total area of contiguous real estate, any noncontiguous parcel of real property included in an agricultural, forestal, or an agricultural and forestal district of local significance pursuant to subsection B of § [15.2-4405](#) shall be deemed to be contiguous to any other real property that is located in such district. For purposes of this section, properties separated only by a public right-of-way are considered contiguous; and

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§ [15.2-4300](#) et seq.) of Title 15.2, or (ii) subject to a recorded perpetual easement that is held by a public body, and promotes the open-space use classification, as defined in § [58.1-3230](#), or (iii) subject to a recorded commitment entered into by the landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than 10 years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#). Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in § [15.2-4314](#) for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

§ 58.1-3232. Authority of city to provide for assessment and taxation of real estate in newly annexed area.

The council of any city may adopt an ordinance to provide for the assessment and taxation of only the real estate in an area newly annexed to such city in accord with the provisions of this article. All of the provisions of this article shall be applicable to such ordinance, except that if the county from which such area was annexed has in operation an ordinance

hereunder, the ordinance of such city may be adopted at any time prior to April 1 of the year for which such ordinance will be effective, and applications from landowners may be received at any time within thirty days of the adoption of the ordinance in such year. If such ordinance is adopted after the date specified in § [58.1-3231](#), the ranges of suggested values made by the State Land Evaluation Advisory Council for the county from which such area was annexed are to be considered the value recommendations for such city. An ordinance adopted under the authority of this section shall be effective only for the tax year immediately following annexation.

§ 58.1-3233. Determinations to be made by local officers before assessment of real estate under ordinance.

Prior to the assessment of any parcel of real estate under any ordinance adopted pursuant to this article, the local assessing officer shall:

1. Determine that the real estate meets the criteria set forth in § [58.1-3230](#) and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he may request an opinion from the Director of the Department of Conservation and Recreation, the State Forester or the Commissioner of Agriculture and Consumer Services;
2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five acres; except that for real estate used for purposes of engaging in aquaculture as defined in § [3.2-2600](#) or for the purposes of raising specialty crops as defined by local ordinance, the governing body may by ordinance prescribe that these uses consist of a minimum acreage of less than five acres, (ii) forest use consists of a minimum of 20 acres and (iii) open-space use consists of a minimum of five acres or such greater minimum acreage as may be prescribed by local ordinance; except that for real estate adjacent to a scenic river, a scenic highway, a Virginia Byway or public property in the Virginia Outdoors Plan or for any real estate in any city, county or town having a density of population greater than 5,000 per square mile, for any real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown chartered in 1691, the governing body may by ordinance prescribe that land devoted to open-space uses consist of a minimum of one quarter of an acre.

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. *However, for purposes of adding together such total area of contiguous real estate, any noncontiguous parcel of real property included in an agricultural, forestal, or an agricultural and forestal district of local significance pursuant to subsection B of § [15.2-4405](#) shall be deemed to be contiguous to any other real property that is located in such district.* For purposes of this section, properties separated only by a public right-of-way are considered contiguous; and

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§ [15.2-4300](#) et seq.) of Title 15.2, or (ii) subject to a recorded perpetual easement that is held by a public body, and promotes the open-space use classification, as defined in § [58.1-3230](#), or (iii) subject to a recorded commitment entered into by the landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than ten years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#). Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in § 15.1-1513 for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

§ 58.1-3234. Application by property owners for assessment, etc., under ordinance; continuation of assessment, etc.

Property owners must submit an application for taxation on the basis of a use assessment to the local assessing officer:

1. At least sixty days preceding the tax year for which such taxation is sought; or
2. In any year in which a general reassessment is being made, the property owner may submit such application until thirty days have elapsed after his notice of increase in assessment is mailed in accordance with § [58.1-3330](#), or sixty days preceding the tax year, whichever is later; or
3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ [58.1-3000](#) et seq.) of this Subtitle III, but continues to assess as of January 1, such application must be submitted for any year at least sixty days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than sixty days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. The governing body of any county, city or town may, however, require any such property owner to revalidate annually with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the locality, any applications previously approved. Each locality which has adopted an ordinance hereunder may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the application fee currently charged by the locality. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the State Tax Commissioner and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications.

In the event of a material misstatement of facts in the application or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted thereunder shall be void and the tax for such year extended on the basis of value determined under § [58.1-3236](#) D. Except as provided by local ordinance, no application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this section.

Continuation of valuation, assessment and taxation under an ordinance adopted pursuant to this article shall depend on continuance of the real estate in a qualifying use, continued payment of taxes as referred to in § [58.1-3235](#), and compliance with the other requirements of this article and the ordinance and not upon continuance in the same owner of title to the land.

In the event that the locality provides for a sliding scale under an ordinance, the property owner and the locality shall execute a written agreement which sets forth the period of time that the property shall remain within the classes of real estate set forth in § [58.1-3230](#). The term of the written agreement shall be for a period not exceeding twenty years, and the instrument shall be recorded in the office of the clerk of the circuit court for the locality in which the subject property is located.

§ 58.1-3235. Removal of parcels from program if taxes delinquent.

If on April 1 of any year the taxes for any prior year on any parcel of real property which has a special assessment as provided for in this article are delinquent, the appropriate county, city or town treasurer shall forthwith send notice of that fact and the general provisions of this section to the property owner by first-class mail. If, after the notice has been sent, such delinquent taxes remain unpaid on June 1, the treasurer shall notify the appropriate commissioner of the revenue who shall remove such parcel from the land use program. Such removal shall become effective for the current tax year.

§ 58.1-3236. Valuation of real estate under ordinance.

A. In valuing real estate for purposes of taxation by any county, city or town which has adopted an ordinance pursuant to this article, the commissioner of the revenue or duly appointed assessor shall consider only those indicia of value which such real estate has for agricultural, horticultural, forest or open space use, and real estate taxes for such jurisdiction shall be extended upon the value so determined. In addition to use of his personal knowledge, judgment and experience as to the value of real estate in agricultural, horticultural, forest or open space use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural, forest or open space capability, and the recommendations of value of such real estate as made by the State Land Evaluation Advisory Council.

B. In determining the total area of real estate actively devoted to agricultural, horticultural, forest or open space use there shall be included the area of all real estate under barns, sheds, silos, cribs, greenhouses, public recreation facilities and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities; but real estate under, and such additional real estate as may be actually used in connection with, the farmhouse or home or any other structure not related to such special use, shall be excluded in determining such total area.

C. All structures which are located on real estate in agricultural, horticultural, forest or open space use and the farmhouse or home or any other structure not related to such special use and the real estate on which the farmhouse or home or such other

structure is located, together with the additional real estate used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other real estate in the locality.

D. In addition, such real estate in agricultural, horticultural, forest or open space use shall be evaluated on the basis of fair market value as applied to other real estate in the taxing jurisdiction, and land book records shall be maintained to show both the use value and the fair market value of such real estate.

§ 58.1-3237. Change in use or zoning of real estate assessed under ordinance; roll-back taxes.

A. When real estate qualifies for assessment and taxation on the basis of use under an ordinance adopted pursuant to this article, and the use by which it qualified changes to a nonqualifying use, or the zoning of the real estate is changed to a more intensive use at the request of the owner or his agent, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall only be assessed against that portion of such real estate which no longer qualifies for assessment and taxation on the basis of use or zoning. Liability for roll-back taxes shall attach and be paid to the treasurer only if the amount of tax due exceeds ten dollars.

B. In localities which have not adopted a sliding scale ordinance, the roll-back tax shall be equal to the sum of the deferred tax for each of the five most recent complete tax years including simple interest on such roll-back taxes at a rate set by the governing body, no greater than the rate applicable to delinquent taxes in such locality pursuant to § [58.1-3916](#) for each of the tax years. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value.

C. In localities which have adopted a sliding scale ordinance, the roll-back tax shall be equal to the sum of the deferred tax from the effective date of the written agreement including simple interest on such roll-back taxes at a rate set by the governing body, which shall not be greater than the rate applicable to delinquent taxes in such locality pursuant to § [58.1-3916](#), for each of the tax years. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year and based on the highest tax rate applicable to the real estate for that year, had it not been subject to special assessment. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value and based on the highest tax rate applicable to the real estate for that year.

D. Liability to the roll-back taxes shall attach when a change in use occurs, or a change in zoning of the real estate to a more intensive use at the request of the owner or his agent occurs. Liability to the roll-back taxes shall not attach when a change in ownership of the title takes place if the new owner does not rezone the real estate to a more intensive use and continues the real estate in the use for which it is classified under the conditions prescribed in this article and in the ordinance. The owner of any real estate which has been zoned to more intensive use at the request of the owner or his agent as provided in subsection E, or otherwise subject to or liable for roll-back taxes, shall, within sixty days following such change in use or zoning, report such change to the commissioner of the revenue or other assessing officer on such forms as may be prescribed. The commissioner shall forthwith determine and assess the roll-back tax, which shall be assessed against and paid by the owner of the property at the time the change in use which no longer qualifies occurs, or at the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent occurs, and shall be paid to the treasurer within thirty days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with §§ 58.1-3915 and 58.1-3916.

E. Real property zoned to a more intensive use, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time such zoning is changed. The roll-back tax shall be levied and collected from the owner of the real estate in accordance with subsection D. Real property zoned to a more intensive use before July 1, 1988, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time the qualifying use is changed to a nonqualifying use. Real property zoned to a more intensive use at the request of the owner or his agent after July 1, 1988, shall be subject to and liable for the roll-back tax at the time of such zoning. Said roll-back tax, plus interest calculated in accordance with subsection B, shall be levied and collected at the time such property was rezoned. For property rezoned after July 1, 1988, but before July 1, 1992, no penalties or interest, except as provided in subsection B, shall be assessed, provided the said roll-back tax is paid on or before October 1, 1992. No real property rezoned to a more intensive use at the request of the owner or his agent shall be eligible for taxation and assessment under this article, provided that these provisions shall not be applicable to any rezoning which is required for the establishment, continuation, or expansion of a qualifying use. If the

property is subsequently rezoned to agricultural, horticultural, or open space, it shall be eligible for consideration for assessment and taxation under this article only after three years have passed since the rezoning was effective.

However, the owner of any real property that qualified for assessment and taxation on the basis of use, and whose real property was rezoned to a more intensive use at the owner's request prior to 1980, may be eligible for taxation and assessment under this article provided the owner applies for rezoning to agricultural, horticultural, open-space or forest use. The real property shall be eligible for assessment and taxation on the basis of the qualifying use for the tax year following the effective date of the rezoning. If any such real property is subsequently rezoned to a more intensive use at the owner's request, within five years from the date the property was initially rezoned to a qualifying use under this section, the owner shall be liable for roll-back taxes when the property is rezoned to a more intensive use. Additionally, the owner shall be subject to a penalty equal to fifty percent of the roll-back taxes due as determined under subsection B of this section.

The roll-back taxes and penalty that otherwise would be imposed under this subsection shall not become due at the time the zoning is changed if the locality has enacted an ordinance pursuant to subsection G.

F. If real estate annexed by a city and granted use value assessment and taxation becomes subject to roll-back taxes, and such real estate likewise has been granted use value assessment and taxation by the county prior to annexation, the city shall collect roll-back taxes and interest for the maximum period allowed under this section and shall return to the county a share of such taxes and interest proportionate to the amount of such period, if any, for which the real estate was situated in the county.

G. A locality may enact an ordinance providing that (i) when a change in zoning of real estate to a more intensive use at the request of the owner or his agent occurs, roll-back taxes shall not become due solely because the change in zoning is for specific more intensive uses set forth in the ordinance, (ii) such real estate may remain eligible for use value assessment and taxation, in accordance with the provisions of this article, as long as the use by which it qualified does not change to a nonqualifying use, and (iii) no roll-back tax shall become due with respect to the real estate until such time as the use by which it qualified changes to a nonqualifying use.

§ 58.1-3237.1. Authority of counties to enact additional provisions concerning zoning classifications.

A. Albemarle County, Arlington County, Augusta County, James City County, Loudoun County, and Rockingham County may include the following additional provisions in any ordinance enacted under the authority of this article:

1. The governing body may exclude land lying in planned development, industrial or commercial zoning districts from assessment under the provisions of this article. As applied to zoning districts, this provision applies only to zoning districts established prior to January 1, 1981.

2. The governing body may provide that when the zoning of the property taxed under the provisions of this article is changed to allow a more intensive nonagricultural use at the request of the owner or his agent, such property shall not be eligible for assessment and taxation under this article. This shall not apply, however, to property that is zoned agricultural and is subsequently rezoned to a more intensive use that is complementary to agricultural use, provided such property continues to be owned by the same owner who owned the property prior to rezoning and continues to operate the agricultural activity on the property. Notwithstanding any other provision of law, such property shall be subject to and liable for roll-back taxes at the time the zoning is changed to allow any use more intensive than the use for which it qualifies for special assessment. The roll-back tax, plus interest, shall be calculated, levied and collected from the owner of the real estate in accordance with § [58.1-3237](#) at the time the property is rezoned.

B. Goochland County may include additional provisions specified in subdivisions A 1 and 2 in any ordinance enacted under the authority of this article, but only in service districts created after July 1, 2013, pursuant to Article 1 (§ [15.2-2400](#) et seq.) of Chapter 24 of Title 15.2.

§ 58.1-3238. Failure to report change in use; misstatements in applications.

Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for such penalties and interest thereon as may be provided by ordinance. Any person making a material misstatement of fact in any such application shall be liable for all such taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

For purposes of this section and § [58.1-3234](#), incorrect information on the following subjects will be considered material misstatements of fact:

1. The number and identities of the known owners of the property at the time of application;
2. The actual use of the property.

The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use shall also be considered a material misstatement of fact for the purposes of this section and § 58.1-3234.

§ 58.1-3239. State Land Evaluation Advisory Committee continued as State Land Evaluation Advisory Council; membership; duties; ordinances to be filed with Council.

The State Land Evaluation Advisory Committee is continued and shall hereafter be known as the State Land Evaluation Advisory Council. The Advisory Council shall be composed of the Tax Commissioner, the dean of the College of Agriculture of Virginia Polytechnic Institute and State University, the State Forester, the Commissioner of Agriculture and Consumer Services and the Director of the Department of Conservation and Recreation.

The Advisory Council shall determine and publish a range of suggested values for each of the several soil conservation service land capability classifications for agricultural, horticultural, forest and open space uses in the various areas of the Commonwealth as needed to carry out the provisions of this article.

On or before October 1 of each year the Advisory Council shall submit recommended ranges of suggested values to be effective the following January 1 or July 1 in the case of localities with fiscal year assessment under the authority of Chapter 30 of this subtitle, within each locality which has adopted an ordinance pursuant to the provisions of this article based on the productive earning power of real estate devoted to agricultural, horticultural, forest and open space uses and make such recommended ranges available to the commissioner of the revenue or duly appointed assessor in each such locality.

The Advisory Council, in determining such ranges of values, shall base the determination on productive earning power to be determined by capitalization of warranted cash rents or by the capitalization of incomes of like real estate in the locality or a reasonable area of the locality.

Any locality adopting an ordinance pursuant to this article shall forthwith file a copy thereof with the Advisory Council.

§ 58.1-3240. Duties of Director of the Department of Conservation and Recreation, the State Forester and the Commissioner of Agriculture and Consumer Services; remedy of person aggrieved by action or nonaction of Director, State Forester or Commissioner.

The Director of the Department of Conservation and Recreation, the State Forester, and the Commissioner of Agriculture and Consumer Services shall provide, after holding public hearings, to the commissioner of the revenue or duly appointed assessor of each locality adopting an ordinance pursuant to this article, a statement of the standards referred to in § [58.1-3230](#) and subdivision 1 of § [58.1-3233](#), which shall be applied uniformly throughout the Commonwealth in determining whether real estate is devoted to agricultural use, horticultural use, forest use or open-space use for the purposes of this article and the procedure to be followed by such official to obtain the opinion referenced in subdivision 1 of § [58.1-3233](#). Upon the refusal of the Commissioner of Agriculture and Consumer Services, the State Forester or the Director of the Department of Conservation and Recreation to issue an opinion or in the event of an unfavorable opinion which does not comport with standards set forth in the statements filed pursuant to this section, the party aggrieved may seek relief in the circuit court of the county or city wherein the real estate in question is located, and in the event that the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

§ 58.1-3241. Separation of part of real estate assessed under ordinance; contiguous real estate located in more than one taxing locality.

A. Separation or split-off of lots, pieces or parcels of land from the real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article, either by conveyance or other action of the owner of such real estate, shall subject the real estate so separated to liability for the roll-back taxes applicable thereto, but shall not impair the right

of each subdivided parcel of such real estate to qualify for such valuation, assessment and taxation in any and all future years, provided it meets the minimum acreage requirements and such other conditions of this article as may be applicable. Such separation or split-off of lots shall not impair the right of the remaining real estate to continuance of such valuation, assessment and taxation without liability for roll-back taxes, provided it meets the minimum acreage requirements and other applicable conditions of this article.

B. 1. No subdivision, separation, or split-off of property which results in parcels that meet the minimum acreage requirements of this article, and that are used for one or more of the purposes set forth in § [58.1-3230](#), shall be subject to the provisions of subsection A.

2. The application of roll-back taxes pursuant to subsection A shall, at the option of the locality, also not apply to a subdivision, separation, or split-off of property made pursuant to a subdivision ordinance adopted under § [15.2-2244](#) that results in parcels that do not meet the minimum acreage requirements of this article, provided that title to the parcels subdivided, separated, or split-off is held in the name of an immediate family member for at least the first 60 months immediately following the subdivision, separation, or split-off.

For purposes of this subdivision, an "immediate family member" means any person defined as such in the locality's subdivision ordinance adopted pursuant to § [15.2-2244](#).

C. Where contiguous real estate in agricultural, horticultural, forest or open-space use in one ownership is located in more than one taxing locality, compliance with the minimum acreage shall be determined on the basis of the total area of such real estate and not the area which is located in the particular taxing locality.

§ 58.1-3242. Taking of real estate assessed under ordinance by right of eminent domain.

The taking of real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article by right of eminent domain shall not subject the real estate so taken to the roll-back taxes herein imposed.

§ 58.1-3243. Application of other provisions of Title 58.1.

The provisions of this title applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis including, without limitation, provisions relating to tax liens, boards of equalization and the correction of erroneous assessments and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

§ 58.1-3244. Article not in conflict with requirements for preparation and use of true values.

Nothing in this article shall be construed to be in conflict with the requirements for preparation and use of true values where prescribed by the General Assembly for use in any fund distribution formula.

GLOSSARY

This Glossary is provided to assist the public in understanding the staff evaluation and analysis of development proposals. It should not be construed as representing legal definitions. Refer to the Fairfax County Zoning Ordinance, Comprehensive Plan or Public Facilities Manual for additional information.

ABANDONMENT: Refers to road or street abandonment, an action taken by the Board of Supervisors, usually through the public hearing process, to abolish the public's right-of-passage over a road or road right-of way. Upon abandonment, the right-of-way automatically reverts to the underlying fee owners. If the fee to the owner is unknown, Virginia law presumes that fee to the roadbed rests with the adjacent property owners if there is no evidence to the contrary.

ACCESSORY DWELLING UNIT (OR APARTMENT): A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit. An accessory dwelling unit may be allowed if a special permit is granted by the Board of Zoning Appeals (BZA). Refer to Sect. 8-918 of the Zoning Ordinance.

AFFORDABLE DWELLING UNIT (ADU) DEVELOPMENT: Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program and in accordance with Zoning Ordinance regulations. Residential development which provides affordable dwelling units may result in a density bonus (see below) permitting the construction of additional housing units. See Part 8 of Article 2 of the Zoning Ordinance.

AGRICULTURAL AND FORESTAL DISTRICTS: A land use classification created under Chapter 114 or 115 of the Fairfax County Code for the purpose of qualifying landowners who wish to retain their property for agricultural or forestal use for use/value taxation pursuant to Chapter 58 of the Fairfax County Code.

BARRIER: A wall, fence, earthen berm, or plant materials which may be used to provide a physical separation between land uses. Refer to Article 13 of the Zoning Ordinance for specific barrier requirements.

BEST MANAGEMENT PRACTICES (BMPs): Stormwater management techniques or land use practices that are determined to be the most effective, practicable means of preventing and/or reducing the amount of pollution generated by nonpoint sources in order to improve water quality.

BUFFER: Graduated mix of land uses, building heights or intensities designed to mitigate potential conflicts between different types or intensities of land uses; may also provide for a transition between uses. A landscaped buffer may be an area of open, undeveloped land and may include a combination of fences, walls, berms, open space and/or landscape plantings. A buffer is not necessarily coincident with transitional screening.

CHESAPEAKE BAY PRESERVATION ORDINANCE: Regulations which the State has mandated must be adopted to protect the Chesapeake Bay and its tributaries. These regulations must be incorporated into the comprehensive plans, zoning ordinances and subdivision ordinances of the affected localities. Refer to Chesapeake Bay Preservation Act, Va. Code Section 10.1-2100 et seq and VR 173-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations.

CLUSTER DEVELOPMENT: Residential development in which the lots are clustered on a portion of a site so that significant environmental/historical/cultural resources may be preserved or recreational amenities provided. While smaller lot sizes are permitted in a cluster subdivision to preserve open space, the overall density cannot exceed that permitted by the applicable zoning district. See Sect. 2-421 and Sect. 9-615 of the Zoning Ordinance.

COUNTY 2232 REVIEW PROCESS: A public hearing process pursuant to Sect. 15.2-2232 (Formerly Sect. 15.1-456) of the Virginia Code which is used to determine if a proposed public facility not shown on the adopted Comprehensive Plan is in substantial accord with the plan. Specifically, this process is used to determine if the general or approximate location, character and extent of a proposed facility is in substantial accord with the Plan.

dBA: The momentary magnitude of sound weighted to approximate the sensitivity of the human ear to certain frequencies; the dBA value describes a sound at a given instant, a maximum sound level or a steady state value. See also Ldn.

DENSITY: Number of dwelling units (du) divided by the gross acreage (ac) of a site being developed in residential use; or, the number of dwelling units per acre (du/ac) except in the PRC District when density refers to the number of persons per acre.

DENSITY BONUS: An increase in the density otherwise allowed in a given zoning district which may be granted under specific provisions of the Zoning Ordinance when a developer provides excess open space, recreation facilities, or affordable dwelling units (ADUs), etc.

DEVELOPMENT CONDITIONS: Terms or conditions imposed on a development by the Board of Supervisors (BOS) or the Board of Zoning Appeals (BZA) in connection with approval of a special exception, special permit or variance application or rezoning application in a "P" district. Conditions may be imposed to mitigate adverse impacts associated with a development as well as secure compliance with the Zoning Ordinance and/or conformance with the Comprehensive Plan. For example, development conditions may regulate hours of operation, number of employees, height of buildings, and intensity of development.

DEVELOPMENT PLAN: A graphic representation which depicts the nature and character of the development proposed for a specific land area: information such as topography, location and size of proposed structures, location of streets trails, utilities, and storm drainage are generally included on a development plan. A development plan is a submission requirement for rezoning to the PRC District. A **GENERALIZED DEVELOPMENT PLAN (GDP)** is a submission requirement for a rezoning application for all conventional zoning districts other than a P District. A development plan submitted in connection with a special exception (SE) or special permit (SP) is generally referred to as an SE or SP plat. A **CONCEPTUAL DEVELOPMENT PLAN (CDP)** is a submission requirement when filing a rezoning application for a P District other than the PRC District; a CDP characterizes in a general way the planned development of the site. A **FINAL DEVELOPMENT PLAN (FDP)** is a submission requirement following the approval of a conceptual development plan and rezoning application for a P District other than the PRC District; an FDP further details the planned development of the site. See Article 16 of the Zoning Ordinance.

EASEMENT: A right to or interest in property owned by another for a specific and limited purpose. Examples: access easement, utility easement, construction easement, etc. Easements may be for public or private purposes.

ENVIRONMENTAL QUALITY CORRIDORS (EQCs): An open space system designed to link and preserve natural resource areas, provide passive recreation and protect wildlife habitat. The system includes stream valleys, steep slopes and wetlands. For a complete definition of EQCs, refer to the Environmental section of the Policy Plan for Fairfax County contained in Vol. 1 of the Comprehensive Plan.

ERODIBLE SOILS: Soils that wash away easily, especially under conditions where stormwater runoff is inadequately controlled. Silt and sediment are washed into nearby streams, thereby degrading water quality.

FLOODPLAIN: Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

FLOOR AREA RATIO (FAR): An expression of the amount of development intensity (typically, non-residential uses) on a specific parcel of land. FAR is determined by dividing the total square footage of gross floor area of buildings on a site by the total square footage of the site itself.

FUNCTIONAL CLASSIFICATION: A system for classifying roads in terms of the character of service that individual facilities are providing or are intended to provide, ranging from travel mobility to land access. Roadway system functional classification elements include Freeways or Expressways which are limited access highways, Other Principal (or Major) Arterials, Minor Arterials, Collector Streets, and Local Streets. Principal arterials are designed to accommodate travel; access to adjacent properties is discouraged. Minor arterials are designed to serve both through traffic and local trips. Collector roads and streets link local streets and properties with the arterial network. Local streets provide access to adjacent properties.

GEOTECHNICAL REVIEW: An engineering study of the geology and soils of a site which is submitted to determine the suitability of a site for development and recommends construction techniques designed to overcome development on problem soils, e.g., marine clay soils.

HYDROCARBON RUNOFF: Petroleum products, such as motor oil, gasoline or transmission fluid deposited by motor vehicles which are carried into the local storm sewer system with the stormwater runoff, and ultimately, into receiving streams; a major source of non-point source pollution. An oil-grit separator is a common hydrocarbon runoff reduction method.

IMPERVIOUS SURFACE: Any land area covered by buildings or paved with a hard surface such that water cannot seep through the surface into the ground.

INFILL: Development on vacant or underutilized sites within an area which is already mostly developed in an established development pattern or neighborhood.

INTENSITY: The magnitude of development usually measured in such terms as density, floor area ratio, building height, percentage of impervious surface, traffic generation, etc. Intensity is also based on a comparison of the development proposal against environmental constraints or other conditions which determine the carrying capacity of a specific land area to accommodate development without adverse impacts.

Ldn: Day night average sound level. It is the twenty-four hour average sound level expressed in A-weighted decibels; the measurement assigns a "penalty" to night time noise to account for night time sensitivity. Ldn represents the total noise environment which varies over time and correlates with the effects of noise on the public health, safety and welfare.

LEVEL OF SERVICE (LOS): An estimate of the effectiveness of a roadway to carry traffic, usually under anticipated peak traffic conditions. Level of Service efficiency is generally characterized by the letters A through F, with LOS-A describing free flow traffic conditions and LOS-F describing jammed or grid-lock conditions.

MARINE CLAY SOILS: Soils that occur in widespread areas of the County generally east of Interstate 95. Because of the abundance of shrink-swell clays in these soils, they tend to be highly unstable. Many areas of slope failure are evident on natural slopes. Construction on these soils may initiate or accelerate slope movement or slope failure. The shrink-swell soils can cause movement in structures, even in areas of flat topography, from dry to wet seasons resulting in cracked foundations, etc. Also known as slippage soils.

OPEN SPACE: That portion of a site which generally is not covered by buildings, streets, or parking areas. Open space is intended to provide light and air; open space may function as a buffer between land uses or for scenic, environmental, or recreational purposes.

OPEN SPACE EASEMENT: An easement usually granted to the Board of Supervisors which preserves a tract of land in open space for some public benefit in perpetuity or for a specified period of time. Open space easements may be accepted by the Board of Supervisors, upon request of the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700, et seq.

P DISTRICT: A "P" district refers to land that is planned and/or developed as a Planned Development Housing (PDH) District, a Planned Development Commercial (PDC) District or a Planned Residential Community (PRC) District. The PDH, PDC and PRC Zoning Districts are established to encourage innovative and creative design for land development; to provide ample and efficient use of open space; to promote a balance in the mix of land uses, housing types, and intensity of development; and to allow maximum flexibility in order to achieve excellence in physical, social and economic planning and development of a site. Refer to Articles 6 and 16 of the Zoning Ordinance.

PROFFER: A written condition, which, when offered voluntarily by a property owner and accepted by the Board of Supervisors in a rezoning action, becomes a legally binding condition which is in addition to the zoning district regulations applicable to a specific property. Proffers are submitted and signed by an owner prior to the Board of Supervisors public hearing on a rezoning application and run with the land. Once accepted by the Board, proffers may be modified only by a proffered condition amendment (PCA) application or other zoning action of the Board and the hearing process required for a rezoning application applies. See Sect. 15.2-2303 (formerly 15.1-491) of the Code of Virginia.

PUBLIC FACILITIES MANUAL (PFM): A technical text approved by the Board of Supervisors containing guidelines and standards which govern the design and construction of site improvements incorporating applicable Federal, State and County Codes, specific standards of the Virginia Department of Transportation and the County's Department of Public Works and Environmental Services.

RESOURCE MANAGEMENT AREA (RMA): That component of the Chesapeake Bay Preservation Area comprised of lands that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

RESOURCE PROTECTION AREA (RPA): That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

SITE PLAN: A detailed engineering plan, to scale, depicting the development of a parcel of land and containing all information required by Article 17 of the Zoning Ordinance. Generally, submission of a site plan to DPWES for review and approval is required for all residential, commercial and industrial development except for development of single family detached dwellings. The site plan is required to assure that development complies with the Zoning Ordinance.

SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP): Uses, which by their nature, can have an undue impact upon or can be incompatible with other land uses and therefore need a site specific review. After review, such uses may be allowed to locate within given designated zoning districts if appropriate and only under special controls, limitations, and regulations. A special exception is subject to public hearings by the Planning Commission and Board of Supervisors with approval by the Board of Supervisors; a special permit requires a public hearing and approval by the Board of Zoning Appeals. Unlike proffers which are voluntary, the Board of Supervisors or BZA may impose reasonable conditions to assure, for example, compatibility and safety. See Article 8, Special Permits and Article 9, Special Exceptions, of the Zoning Ordinance.

STORMWATER MANAGEMENT: Engineering practices that are incorporated into the design of a development in order to mitigate or abate adverse water quantity and water quality impacts resulting from development. Stormwater management systems are designed to slow down or retain runoff to re-create, as nearly as possible, the pre-development flow conditions.

SUBDIVISION PLAT: The engineering plan for a subdivision of land submitted to DPWES for review and approved pursuant to Chapter 101 of the County Code.

TRANSPORTATION DEMAND MANAGEMENT (TDM): Actions taken to reduce single occupant vehicle automobile trips or actions taken to manage or reduce overall transportation demand in a particular area.

TRANSPORTATION SYSTEM MANAGEMENT (TSM) PROGRAMS: This term is used to describe a full spectrum of actions that may be applied to improve the overall efficiency of the transportation network. TSM programs usually consist of low-cost alternatives to major capital expenditures, and may include parking management measures, ridesharing programs, flexible or staggered work hours, transit promotion or operational improvements to the existing roadway system. TSM includes Transportation Demand Management (TDM) measures as well as H.O.V. use and other strategies associated with the operation of the street and transit systems.

URBAN DESIGN: An aspect of urban or suburban planning that focuses on creating a desirable environment in which to live, work and play. A well-designed urban or suburban environment demonstrates the four generally accepted principles of design: clearly identifiable function for the area; easily understood order; distinctive identity; and visual appeal.

VACATION: Refers to vacation of street or road as an action taken by the Board of Supervisors in order to abolish the public's right-of-passage over a road or road right-of-way dedicated by a plat of subdivision. Upon vacation, title to the road right-of-way transfers by operation of law to the owner(s) of the adjacent properties within the subdivision from whence the road/road right-of-way originated.

VARIANCE: An application to the Board of Zoning Appeals which seeks relief from a specific zoning regulation such as lot width, building height, or minimum yard requirements, among others. A variance may only be granted by the Board of Zoning Appeals through the public hearing process and upon a finding by the BZA that the variance application meets the required Standards for a Variance set forth in Sect. 18-404 of the Zoning Ordinance.

WETLANDS: Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corps of Engineers

TIDAL WETLANDS: Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code: includes tidal shores and tidally influenced embayments, creeks, and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

Abbreviations Commonly Used in Staff Reports

A&F	Agricultural & Forestal District	PDH	Planned Development Housing
ADU	Affordable Dwelling Unit	PFM	Public Facilities Manual
ARB	Architectural Review Board	PRC	Planned Residential Community
BMP	Best Management Practices	RC	Residential-Conservation
BOS	Board of Supervisors	RE	Residential Estate
BZA	Board of Zoning Appeals	RMA	Resource Management Area
COG	Council of Governments	RPA	Resource Protection Area
CBC	Community Business Center	RUP	Residential Use Permit
CDP	Conceptual Development Plan	RZ	Rezoning
CRD	Commercial Revitalization District	SE	Special Exception
DOT	Department of Transportation	SEA	Special Exception Amendment
DP	Development Plan	SP	Special Permit
DPWES	Department of Public Works and Environmental Services	TDM	Transportation Demand Management
DPZ	Department of Planning and Zoning	TMA	Transportation Management Association
DU/AC	Dwelling Units Per Acre	TSA	Transit Station Area
EQC	Environmental Quality Corridor	TSM	Transportation System Management
FAR	Floor Area Ratio	UP & DD	Utilities Planning and Design Division, DPWES
FDP	Final Development Plan	VC	Variance
GDP	Generalized Development Plan	VDOT	Virginia Dept. of Transportation
GFA	Gross Floor Area	VPD	Vehicles Per Day
HC	Highway Corridor Overlay District	VPH	Vehicles per Hour
HCD	Housing and Community Development	WMATA	Washington Metropolitan Area Transit Authority
LOS	Level of Service	WS	Water Supply Protection Overlay District
Non-RUP	Non-Residential Use Permit	ZAD	Zoning Administration Division, DPZ
OSDS	Office of Site Development Services, DPWES	ZED	Zoning Evaluation Division, DPZ
PCA	Proffered Condition Amendment	ZPRB	Zoning Permit Review Branch
PD	Planning Division		
PDC	Planned Development Commercial		